

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No. 1525 of 2025

Parwez Ahmad @ Parvez Ansari, aged about 40 years, son of Md. Zaman Ansari, resident of Karim Mandi, P.O. -Karim Mandi, P.S. Haider Nagar, District -Palamau.

.... Petitioner

Versus

The State of Jharkhand Opp. Party

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

For the Petitioner	 : Md. Sajid Yunus, Advocate
	: Mr. Deepak Kumar, Advocate
For the State	: Mr. Bhola Nath Ojha, Spl. P.P.

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By the Court:-

1. Heard the parties.
2. This criminal miscellaneous petition has been filed invoking the jurisdiction of this Court under Section 528 of the Bhartiya Nagrik Suraksha Sanhita, 2023 with twin prayers but the learned counsel for the petitioner at the outset submits that the petitioner do not press the prayer to quash the order dated 03.04.2025 by which non-bailable warrant has been issued and confines his prayer to quash the order dated 30.04.2025 by which the proclamation under Section 82 of the Cr.P.C. has been issued against the petitioner in connection with S.T. Case No. 474A of 2019 arising out of Haider Nagar P.S. Case No. 36 of 2019 corresponding to G.R. Case No. 956 of 2019 involving the offences punishable under Section 147, 148, 149, 302 & 307 of the Indian Penal Code.

3. It is submitted by the learned counsel for the petitioner that the learned Additional Sessions Judge-IX, Palamau at Daltonganj has passed the said order dated 30.04.2025, so far it relates to issuing the proclamation under Section 82 Cr.P.C. against the petitioner, without following the due process of law and without recording the satisfaction that the petitioner is absconding or concealing himself to evade his arrest; which is a *sine qua non* for issuing proclamation under Section 82 of the Cr.P.C. and without fixing any time and place for appearance of the petitioner, who is the accused person of the case. Hence, it is submitted that the order dated 30.04.2025 passed in connection with S.T. Case No. 474A of 2019 arising out of Haider Nagar P.S. Case No. 36 of 2019 corresponding to G.R. Case No. 956 of 2019 be quashed and set aside.
4. The learned Spl. P.P. on the other hand vehemently opposes the prayer for quashing the order dated 30.04.2025 passed in connection with S.T. Case No. 474A of 2019 arising out of Haider Nagar P.S. Case No. 36 of 2019 corresponding to G.R. Case No. 956 of 2019 and submits that the very fact that the learned Additional Sessions Judge-IX has issued the proclamation under Section 82 of the Cr.P.C. itself shows that there were materials available in the record for the learned Additional Sessions Judge-IX, Palamau at Daltonganj to be satisfied that there is justification for issuance of such proclamation. Hence, it is submitted that this

criminal miscellaneous petition being without any merit be dismissed.

5. Having heard the rival submissions made at the Bar and after going through the materials available in the record, it is pertinent to mention here that by now it is a settled principle of law that the court which issues the proclamation under Section 82 of the Cr.P.C. must record its satisfaction that the accused in respect of whom the proclamation under Section 82 of the Cr.P.C. is made, is absconding or concealing himself to evade his arrest and in case the court decides to issue proclamation under Section 82 of Cr.P.C. it must mention the time and place for appearance of the petitioner in the order itself by which such proclamation under Section 82 of Cr.P.C. is issued. As already indicated above since the learned Additional Sessions Judge-IX, Palamau at Daltonganj has neither recorded its satisfaction that the petitioner is absconding or concealing himself to evade his arrest nor fixed any time or place for appearance of the petitioner, this Court has no hesitation in holding that the learned Additional Sessions Judge-IX, Palamau at Daltonganj has committed illegality by issuing the said proclamation under Section 82 of the Cr.P.C. without complying with the mandatory requirements of law. Hence, the same is not sustainable in law and this is a fit case where the order dated 30.04.2025 passed by the learned Additional Sessions Judge-IX, Palamau at Daltonganj in connection with S.T. Case No. 474A of 2019 arising out of Haider Nagar P.S. Case No. 36 of 2019

corresponding to G.R. Case No. 956 of 2019 be quashed and set aside.

6. Accordingly, the order dated 30.04.2025 passed by the learned Additional Sessions Judge-IX, Palamau at Daltonganj in connection with S.T. Case No. 474A of 2019 arising out of Haider Nagar P.S. Case No. 36 of 2019 corresponding to G.R. Case No. 956 of 2019 is quashed and set aside *qua* the petitioner.
7. The learned Additional Sessions Judge-IX, Palamau at Daltonganj or its successor court may pass a fresh order in accordance with law.
8. This criminal miscellaneous petition is allowed to the aforesaid extent only.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 7th July, 2025
AFR/Sonu-Gunjan/-