

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No.1590 of 2025

Kanhaiya Yadav, aged about 40 years, S/o Bhageshwar Yadav, R/o
village- Sindri Colony, P.O. + P.S.- Nirsa, District- Dhanbad

... Petitioner

Versus

The State of Jharkhand ... Opposite Party

For the Petitioner : Mr. Mukesh Bihari Lal, Advocate
For the State : Mr. Prabir Kr. Chatterjee, Spl.P.P.

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

By the Court:- 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 a prayer to set aside the order dated 07.01.2025 passed by the learned Judicial Magistrate-1st Class, Dhanbad in connection with Nirsa P.S. Case No.396 of 2023 whereby and where under the learned Magistrate has directed for issuance of the process under Section 82 of Cr.P.C. against the petitioner.

3. The brief fact of the case is that on 07.01.2025, the Investigating Officer filed a petition with a prayer for issuance of the proclamation under Section 82 of Cr.P.C. *inter alia* against the petitioner who is the accused person of the said Nirsa P.S. Case No.396 of 2023. The learned Judicial Magistrate-1st Class, Dhanbad considered that execution report of the non-bailable warrant of arrest shows that the Investigating Officer raided the house of the petitioner *inter alia* on 22.10.2024 but he found that the petitioner was absconding from the house

and again on 15.12.2024, the Investigating Officer again raided the house of the petitioner but again he was found absconding and thus, being satisfied that *inter alia* the petitioner is knowingly absconding, issued the proclamation under Section 82 of the Cr.P.C.

4. Learned counsel for the petitioner submits that the allegation against the petitioner is false. It is next submitted that the Investigating Officer never issued any notice under Section 41-A of the Cr.P.C. It is further submitted that the petitioner had no knowledge about the present case and only after filing Anticipatory Bail Application, he came to know about the proclamation under Section 82 of Cr.P.C. having been issued against him. Hence, it is submitted that the prayer, as prayed for in the instant Cr.M.P., be allowed.

5. Learned Spl.P.P. appearing for the State on the other hand vehemently opposes the prayer of the petitioner made in the instant Cr.M.P. and submits that the undisputed fact remains that the Investigating Officer of the case raided the house of the petitioner on 22.10.2024 and 15.12.2024 in presence of witnesses and on both the occasions, the petitioner was found absconding from his house and on the basis of such materials available in the record, the learned Judicial Magistrate-1st Class, Dhanbad was satisfied that the petitioner was absconding and evading his arrest to appear before the court concerned. It is next submitted that it is not the requirement of law that notice under Section 41-A of the Cr.P.C. be issued before the proclamation under Section 82 of Cr.P.C. being issued. Therefore, there is no illegality in the order dated 07.01.2025 passed by the learned Judicial Magistrate-1st Class, Dhanbad in connection with Nirsa P.S. Case No.396 of 2023. Hence, it is submitted that this Cr.M.P., being without any merit, be dismissed.

6. Having heard the rival submissions made at the Bar and after carefully going through the materials available in the record, the undisputed fact remains that the learned Judicial Magistrate-1st Class, Dhanbad issued the non-bailable warrant of arrest against the petitioner. The police, for the purpose of executing the warrant of arrest issued against the petitioner, raided his house on 22.10.2024 and 15.12.2024 and on both the occasions, the petitioner was found absconding from his house and from the said materials available in the record, the learned Judicial Magistrate-1st Class, Dhanbad being satisfied that the petitioner is absconding to evade his arrest, has ordered for issuance of the proclamation under Section 82 of the Cr.P.C.
7. Accordingly, this Court do not find any illegality in the impugned order dated 07.01.2025 passed by the learned Judicial Magistrate-1st Class, Dhanbad in connection with Nirsa P.S. Case No.396 of 2023.
8. Accordingly, this Cr.M.P., being without any merit, is dismissed.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 10th of July, 2025
AFR/ Animesh