

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No.2951 of 2025

Shankar Kumar Mandal @ Shankar Mandal, aged about 24 years,
S/o Kehar Mandal, R/o Village - Chikasoria, Phuljharia, P.O.-
Phuljharia, P.S.- Ahilyapur, District- Giridih, Jharkhand

... Petitioner

Versus

The State of Jharkhand

...

Opposite Party

For the Petitioner : Ms. Diksha Rani, Advocate
Ms. Juhi Kumari, Advocate
For the State : Mr. Shailendra Kr. Tiwari, 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 Bharatiya Nagarik Suraksha Sanhita, 2023 with the specific prayer to quash the order dated 02.07.2024 passed by the learned Additional Sessions Judge-II cum-Special Judge Cyber Crime, Giridih in connection with Ahilyapur P.S. Case No.38 of 2023 (Supp.) whereby and where under the learned Additional Sessions Judge-II cum-Special Judge Cyber Crime, Giridih has issued the proclamation under Section 82 of Cr.P.C. without fixing the time and place for appearance of the petitioner.

3. The brief fact of the case is that on 02.07.2024, the Investigating Officer of the case filed a requisition for issuance of the proclamation under Section 82 of Cr.P.C but the learned Additional Sessions Judge-II cum-Special Judge Cyber Crime, Giridih without fixing the time or place for appearance of the petitioner, who is the accused person of the case, has issued the said proclamation.

4. Learned counsel for the petitioner submits that it was incumbent upon the learned Additional Sessions Judge-II cum-Special Judge Cyber Crime, Giridih to fix the time and place for appearance of the petitioner- who is the accused person of the case, in the order itself by which proclamation under Section 82 of Cr.P.C. has been issued but having not done so, the learned Additional Sessions Judge-II cum-Special Judge Cyber Crime, Giridih has committed a grave illegality. It is next submitted that the similar prayer of the co-accused persons, has already been allowed by this Court vide judgment dated 04th September, 2025 passed in Cr.M.P. No.2521 of 2025. Therefore, it is submitted that the prayer of the petitioner, as prayed for in the instant Cr.M.P., be allowed.

5. Learned Spl.P.P. appearing for the State vehemently opposes the prayer of the petitioner made in the instant Cr.M.P. and submits that though the time and place for appearance of the petitioner has not been mentioned in the said order dated 02.07.2024 but the petitioner was to appear before the court concerned, 30 days after the proclamation was made. 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, 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 Cr.P.C., must mention the time and place for appearance of the accused, in respect of whom such proclamation is issued, in the order itself, by which the proclamation under Section 82 of Cr.P.C. is issued. As already indicated above since the learned Additional Sessions Judge-II cum-Special Judge Cyber Crime, Giridih has not fixed any time or place for

appearance of the petitioner who is the accused person of the case concerned, this Court has no hesitation in holding that the learned Additional Sessions Judge-II cum-Special Judge Cyber Crime, Giridih has committed a grave illegality by issuing the said proclamation under Section 82 of Cr.P.C. without complying with the mandatory requirements of law. Hence, the impugned order is not sustainable in law and the continuation of the same will amount to abuse of process of law and this is a fit case where the order dated 02.07.2024 passed by the learned Additional Sessions Judge-II cum-Special Judge Cyber Crime, Giridih in connection with Ahilyapur P.S. Case No.38 of 2023 (Supp.), be quashed and set aside.

7. Accordingly, order dated 02.07.2024 passed by the learned Additional Sessions Judge-II cum-Special Judge Cyber Crime, Giridih in connection with Ahilyapur P.S. Case No.38 of 2023 (Supp.), is quashed and set aside *qua* the petitioner.

8. The learned Additional Sessions Judge-II cum-Special Judge Cyber Crime, Giridih may pass a fresh order in accordance with law.

9. In the result, this Cr.M.P. stands allowed.

(Anil Kumar Choudhary, J.)