

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No.3369 of 2025

Santosh Kumar Das aged about 29 years, son of Nageshwar Das,
resident of village Balanadih. Post office Parjori, P.S. Deoghar,
District – Deoghar, Jharkhand.

... Petitioner

Versus

The State of Jharkhand ... Opposite Party

For the Petitioner : Mr. Lalit Yadav, Advocate
For the State : Mr. Naveen Kumar Ganjhu, Addl.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 B.N.S.S., 2023 with the prayer to quash the order dated 20.09.2025 passed by the learned Additional Sessions Judge-II, Deoghar in connection with Deoghar Cyber P.S. Case No.71 of 2023 whereby and where under the learned Additional Sessions Judge-II, Deoghar has directed for issuance of the proclamation under Section 82 of the Code of Criminal Procedure against the petitioner.

3. Learned counsel for the petitioner submits that vide the order dated 20.09.2025 passed in the said case, the proclamation under Section 82 of the Code of Criminal Procedure was issued 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 Code of Criminal Procedure; that too without mentioning the

time and place for appearance of the petitioner. Hence, the order dated 20.09.2025 passed by the learned Additional Sessions Judge-II, Deoghar in connection with the said case is not sustainable in law. Hence, it is submitted that the same be quashed and set aside.

4. Learned Addl.P.P. appearing for the State on the other hand vehemently opposes the prayer of the petitioner made in this Criminal Miscellaneous Petition and submits the very fact that the learned Additional Sessions Judge-II, Deoghar has passed order for issuance of the proclamation under Section 82 of the Code of Criminal Procedure, itself goes to show that there were materials available in the record for the same. 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 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 the Code of Criminal Procedure, must record its satisfaction that the accused in respect of whom the proclamation under Section 82 of the Code of Criminal Procedure is made, is absconding or concealing himself to evade his arrest and in case the court decides to issue the proclamation under Section 82 of the Code of Criminal Procedure, it must specifically mention the time and place for appearance of the accused person of the case in respect of whom the proclamation under Section 82 of the Code of Criminal Procedure is issued, in the order itself by which the said proclamation is issued.

6. As already indicated above since the learned Additional Sessions Judge-II, Deoghar vide the order dated 20.09.2025 passed by the learned Additional Sessions Judge-II, Deoghar in connection with Deoghar Cyber P.S. Case No.71 of 2023, 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 who is the accused person of the case. Hence, this Court has no hesitation in holding that the learned Additional Sessions Judge-II, Deoghar has committed illegality by issuing the said proclamation under Section 82 of the Code of Criminal Procedure without complying with the mandatory requirements of law. Hence, the same is not sustainable in law and the continuation of the same will amount to abuse of process of law. Therefore, this is a fit case where the order dated 20.09.2025 passed by the learned Additional Sessions Judge-II, Deoghar in connection with Deoghar Cyber P.S. Case No.71 of 2023, be quashed and set aside.

7. Accordingly, the order dated 20.09.2025 passed by the learned Additional Sessions Judge-II, Deoghar in connection with Deoghar Cyber P.S. Case No.71 of 2023, is quashed and set aside.

8. The learned Additional Sessions Judge-II, Deoghar may pass a fresh order in accordance with law.

9. In the result, this Criminal Miscellaneous Petition is allowed to the aforesaid extent only.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 25th of November, 2025
AFR/ Saroj

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