

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No. 973 of 2026

Md. Akbar Khan @ Akbar Khan, aged about 51 years, s/o Mustakim Khan, r/o New Islampur, P.O.-Bank More, P.S.-Bank More (Bhuli O.P.), Dist.-Dhanbad

....

Petitioner

Versus

The State of Jharkhand

....

Opp. Party

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

.....

For the Petitioners

: Mr. Lukesh Kumar, Advocate

For the State

: Mrs. Vandana Bharti, Addl. 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 B.N.S.S., 2023 with the prayer to quash the order dated 31.01.2026 passed by the learned Judicial Magistrate 1st Class, Dhanbad in connection with Govindpur P.S. Case No. 453 of 2022 whereby and where under, the learned Judicial Magistrate 1st Class, Dhanbad has though held that the proclamation under Section 82 of Cr.P.C. shall be published on 09.02.2026 but fixed the date for appearance before the court of learned Judicial Magistrate 1st Class, Dhanbad on or before 09.03.2026 that is within 30 days from the period of publishing the proclamation; keeping in view the fact that the month of February in the year 2026 consisted of 28 days only.
3. Relying upon the judgment of this Court in the case of **Ashish Kumar @ Ashish Kumar Gupta vs. The State of Jharkhand** in

Cr.M.P. No. 2567 of 2025 dated 09.09.2025, it is submitted by the learned counsel for the petitioner that taking notice of verbatim of Section 82 of Cr.P.C. which reads as under:-

82. Proclamation for person absconding. – (1) *If any Court has reason to believe (whether after taking evidence or not) that any person against whom a warrant has been issued by it has absconded or is concealing himself so that such warrant cannot be executed, such Court may publish a written proclamation requiring him to appear at a specified place and at a specified time not less than thirty days from the date of publishing such proclamation. (Emphasis supplied)*

This Court in that case, when the time for appearance of the accused person of the case in respect of the written proclamation under Section 82 of Cr.P.C. was made within thirty days from the date of publication; quashed and set aside the said order.

4. It is next submitted by the learned counsel for the petitioner that in this case also, for the same reasons, the order dated 09.02.2026 be quashed and set aside.
5. The learned Addl. P.P. on the other hand vehemently oppose the prayer and submits that this criminal miscellaneous petition being without any merit be dismissed.
6. Having heard the submissions made at the Bar and after going through the materials available in the record, his Court has no hesitation in holding that the plain reading of Section 82 of the Cr.P.C. makes it abundantly clear that in case, the court decides to issue the proclamation under Section 82 of Cr.P.C., such court may publish a written proclamation requiring the accused person to appear at a specific place and time, not less than 30 days from the date of publishing such proclamation.

7. Now coming to the facts of the case, vide the impugned order dated 31.01.2026, learned Judicial Magistrate 1st Class, Dhanbad fixed the date for appearance to be 09.03.2026 at 10:30 am i.e. the time which is within the period of 30 days from 09.02.2026 keeping in view the fact that in the year 2026, February month consisted of only 28 days. Therefore, this Court has no hesitation in holding that the learned Judicial Magistrate 1st Class, Dhanbad has committed an error in fixing the date and time for appearance of the accused person within 30 days from the date of publication of the proclamation.
8. Hence, this Court has no hesitation in holding that order dated 31.01.2026 passed by the learned Judicial Magistrate 1st Class, Dhanbad in connection with Govindpur P.S. Case No. 453 of 2022 is not in accordance with law and continuation of the same will amount to abuse of process of law.
9. Accordingly, the order dated 31.01.2026 passed by the learned Judicial Magistrate 1st Class, Dhanbad in connection with Govindpur P.S. Case No. 453 of 2022 is quashed and set aside.
10. The learned Judicial Magistrate 1st Class, Dhanbad may pass a fresh order in accordance with law.
11. In the result, this criminal miscellaneous petition is allowed.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 15th April, 2026
AFR/Gunjan/-

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