IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No.1915 of 2026

Bhupesh Kapoor aged about 80 years, S/o Late Dr. Oudh Bihari Lal Kapoor R/o- 5A RAWDON Heights, 5 RAWDON Street, Circus Avenue, P.O. & P.S: Circus Avenue, District Kolkata, West Bengal, 700017 … Petitioner

Versus

1. The State of Jharkhand
2. Pradeep Kumar Bajaj S/o- Sri Govardhan Prasad Bajaj, Proprietor of M/S. Bajaj Sales, R/o M.I.G. House No. 45A, Housing Colony, P.O. and P.S.- Dhanbad, Dist- Dhanbad, Jharkhand

… Opposite Parties

For the Petitioner : Mr. Indrajit Sinha, Advocate
Mr. Soumitra Baroi, Advocate
Mr. Rishav Kumar, Advocate
For the State : Mr. Shiv Shankar Kumar, Addl.P.P.
For the O.P. No.2 : Mr. Shekhar Pd. Gupta, Advocate
Mr. Rajesh Ranjan Singh, Advocae

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

By the Court:- **I.A. No.14394 of 2026**

Heard the parties.

Learned counsel for the petitioners submits that this interlocutory application has been filed for early hearing of this Cr.M.P.

Since, the hearing of this Cr.M.P. is taken up today, hence, this interlocutory application stands disposed of being infructuous.

(Anil Kumar Choudhary, J.)

Cr.M.P. No.1915 of 2026

This criminal miscellaneous petition has been filed invoking the jurisdiction of this Court under Section 528 of the B.N.S.S, 2023, with the prayer to quash and set aside the orders dated 21.08.2017 and 21.11.2017 passed by the learned Judicial Magistrate 1st Class, Dhanbad in Complaint Case No. 911 of 2001 whereby and whereunder non-Bailable warrant of arrest and proclamation under Section 82 Cr.P.C. has been issued respectively *inter alia* against the petitioner.

2. It is submitted by the learned counsel for the petitioner that though vide order dated 19.05.2017, the learned Judicial Magistrate, Dhanbad ordered for bailable warrant of arrest to be issued *inter alia* against petitioner but without the Execution Report of the said bailable warrant of arrest having been received by the Court, vide order dated 21.08.2017, non-bailable warrant of arrest has been ordered to be issued against the petitioner which is not sustainable in law. It is next submitted that so far as the order dated 21.11.2017 is concerned, the Judicial Magistrate 1st Class, Dhanbad has not recorded its satisfaction that the petitioner is absconding or concealing themselves to evade his arrest nor fixed any time or place for the appearance of the petitioner and directed for issuance of proclamation under Section 82 of the Cr.P.C. against the petitioner. Hence, it is submitted that the same is also not sustainable in law. It is also submitted that the similar prayer of the co-accused, has already been allowed by this Court vide judgment dated 16th September, 2026 passed in **Cr.M.P. No.2238 of 2026** reported

in **2026:JHHC:27972**. It is therefore, submitted that the prayer as prayed for in this Criminal Miscellaneous Petition be allowed.

3. Learned Additional Public Prosecutor and the learned counsel for the Opposite Party No. 2 on the other hand oppose the prayer and submit that the very fact that the learned Magistrate has issued the proclamation under Section 82 of Cr.P.C. itself shows that there were sufficient materials available in the record for the learned Judicial Magistrate 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.

4. Having heard the rival submissions made at the Bar and after carefully going through the materials available in the record, so far as the order dated 21.08.2017 is concerned, since vide order dated 19.05.2017, learned Judicial Magistrate 1st Class, Dhanbad has directed for issuance of bailable warrant of arrest against the petitioner, it was incumbent upon the learned Judicial Magistrate concerned to ensure that the Execution Report of the said bailable warrant of arrest is received back in the Court before issuing the non-bailable warrant of arrest, but in absence of any material in the record to suggest that the execution report of the bailable warrant of arrest issued *inter alia* against the petitioner, has been received back, the learned Judicial Magistrate vide order dated 21.08.2017 having passed order for issuance of non-bailable warrant of arrest against the petitioner, the same is not

sustainable in law. Accordingly, the same is liable to be quashed and set aside against the petitioner.

5. So far as the order dated 21.11.2017 is concerned, 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 record its satisfaction that the accused in respect of whom the proclamation under Section 82 of 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 the proclamation under Section 82 of Cr.P.C. is issued. As already indicated above since the learned Judicial Magistrate 1st Class, Dhanbad 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 this case, hence this Court has no hesitation in holding that the learned Judicial Magistrate-1st Class, Dhanbad has committed grave illegality by issuing the said proclamation under Section 82 of Cr.P.C. without complying with the mandatory requirements of law.

6. Accordingly, the orders dated 21.08.2017 and 21.11.2017 passed by the learned Judicial Magistrate, Dhanbad in Complaint Case No. 911 of 2001, is quashed and set aside *qua* the petitioner named above.

7. The learned Judicial Magistrate 1st Class, Dhanbad may pass a fresh order in accordance with law.

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

9. In view of disposal of the instant Cr.M.P., pending interlocutory application, if any, is disposed of being infructuous.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 08th of October, 2026
AFR/ Animesh
Uploaded on- 09/10/2026