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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
CRIMINAL REVISION APPLICATION NO. 213 OF 2025**

VAISHALI  
ANIL  
TIKAM

**Khusal Bhanudas Tapkir and Anr.**

**...Applicants**

**Vs.**

**State of Maharashtra**

**...Respondent**

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by VAISHALI  
ANIL TIKAM

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Mr. Hrishikesh Ashok Mundargi i.by Harshwardhan Milind Pawar a/w.  
Padmasinh Patil, Advocates for Applicants.

Smt. R.D. Humane, APP for the State.

Mr. Kailash Ramchandra Kadam, Indapur Police Station.

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**CORAM : SHIVKUMAR DIGE, J.**

**DATE : 2<sup>nd</sup> SEPTEMBER, 2026.**

**P.C. :**

1. Heard learned counsel for the Applicants and learned APP for the State.

2. The challenge in this application is to the impugned order dated 7<sup>th</sup> February, 2025 passed below Exhibit 38 by learned Sessions Judge, Indapur, Pune, whereby proclamation under Section 82 of the Criminal Procedure Code, 1973 (for short, "Cr.P.C") is issued against the Applicants.

3. It is contention of learned counsel for the Applicants that the proclamation has been issued against the Applicants without following the mandatory procedure prescribed under Section 82 of the Cr.P.C. Learned Sessions Judge has passed the impugned order, which does not mention about the place or time requiring the Applicants to appear at a specified

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place and at a specified time in not less than thirty days from the date of publication of such proclamation, as stipulated under Section 82(1) of the Cr.P.C.. Learned Sessions Judge has also not followed proper procedure for publication of the proclamation as provided under section 82(2) of the Cr.P.C, which is erroneous. It is further submitted that proclamation was deliberately obtained to frustrate and prejudice the pending Anticipatory Bail proceeding of the Applicant-Khusal Tapkir, which was subsequently rejected on the ground that the proclamation was issued. After rejection of the said anticipatory bail, no steps have thereafter been taken to proceed under section 82(4) of the Cr.P.C. It is submitted that learned Sessions Judge has passed the impugned order in a routine and mechanical manner, without application of mind and requested to allow the application.

He has relied on *Tek Chand vs. State of Punjab and Another*<sup>1</sup>.

4. It is contention of Learned APP that the Applicants are Accused Nos. 1 and 2 and are facing prosecution for the offence punishable under Section 302 of Indian Penal Code, 1908 (for short, “IPC”). Non-bailable warrant had been issued against them in the year 2022. Despite the issuance of the said warrant, the Applicants were avoiding the due process of law and absconding. Hence, an Application under Section 82 of the Cr.P.C. was filed against them. The Learned APP further submitted that learned Sessions Judge, after considering the material on record, has

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<sup>1</sup> 2026 SCC OnLine P&H 416

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rightly issued proclamation and has passed a well-reasoned order, no interference is required in it and requested to reject the application.

5. I have heard both learned counsel. Perused impugned order. The record shows that non-bailable warrant was issued against Applicants in the year 2022 and the Applicants could not be traced during the course of investigation. Consequently, the warrant issued against them could not be executed. Section 82 of the Cr.P.C deals with the issuance and publication of proclamation against a person who is absconding or concealing himself to avoid execution of warrant. Sections 82 (1) to 82(4) of the Cr.P.C. read as follows:

*"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.*

*(2) The proclamation shall be published as follows:-*

*(i) (a) it shall be publicly read in some conspicuous place of the town or village in which such person ordinarily resides;*

*(b) it shall be affixed to some conspicuous part of the house or homestead in which such person ordinarily*

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*resides or to some conspicuous place of such town or village.*

*(c) a copy thereof shall be affixed to some conspicuous part of the Court-house.*

*(ii) the Court may also, if it thinks fit, direct a copy of the proclamation to be published in a daily newspaper circulating in the place in which such person ordinarily resides.*

*(3) A statement in writing by the Court issuing the proclamation to the effect that the proclamation was duly published on a specified day, in the manner specified in clause (i) of sub-section (2), shall be conclusive evidence that the requirements of this section have been complied with, and that the proclamation was published on such day.*

<sup>2</sup>*(4) Whereas proclamation under sub-section (1) is in respect of a person accused of an offence punishable under section 302, 304, 364, 367, 382, 392, 393, 394, 395, 396, 397, 398, 399, 400, 402, 436, 449, 459 or 460 of the Indian Penal Code (45 of 1860), and such person fails to appear at the specified place and time required by the proclamation, the Court may, after making such inquiry as it thinks fit, pronounce him a proclaimed offender and make a declaration to that effect".*

6. These provisions specifically states that if the Court has reason to believe that any person against whom a warrant has been issued has absconded or is concealing himself so that such warrant cannot be

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<sup>2</sup> Inserted by Act 25 of 2005, S.12 (w.e.f. 23-6-2006).

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executed, the Court may publish a written proclamation requiring such person to appear at a specified place and at a specified time, not less than thirty days from the date of publication of such proclamation. Thus, the Court is required to specify the place and time at which such person is required to appear and provide him with a period of not less than thirty days from the date of publication of the proclamation. In the impugned order, the Learned Sessions Judge has not specified any such place or time for the Applicants to appear, nor has the Applicants been granted the statutory period of thirty days to appear before the Court.

7. It appears from the record that the mandatory procedure prescribed under Section 82(2) of the Cr.P.C. for publication of the proclamation, including public reading of the proclamation and its affixation at the conspicuous part of the house or homestead of the Applicants and at the Court-house, was not duly followed by the learned Sessions Judge.

8. It appears that the procedure prescribed under Section 82 of the Cr.P.C. has not been duly followed. The provision requires a written proclamation requiring the person to appear at a specified place and at a specified time, not less than thirty days from the date of publication of such proclamation. In the present case, no such place or time has been specified in the impugned order and the statutory period of thirty days has

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not been provided. Further, the mandatory procedure prescribed under Section 82(2) of the Cr.P.C. for publication of the proclamation has also not been complied with.

9. In the facts and circumstances of the case, the impugned order appears to have been passed in haste and without due compliance with the procedure prescribed under Section 82 of the Cr.P.C. The power under Section 82 cannot be exercised mechanically or in a routine manner. The impugned order, therefore, suffers from procedural irregularity and non-application of mind and cannot be sustained in law. In the view of above, I pass following order:

**ORDER**

- (i) Application is allowed.
- (ii) The impugned order dated 7<sup>th</sup> February, 2025 passed below Exhibit 38 by the Learned Additional Sessions Judge, Indapur, Pune in Sessions Case No. 115/2024 is quashed and set aside.
- (iii) If prosecution wishes to declare the Applicants as proclaimed offenders, the prosecution shall follow the procedure envisaged under Section 82 of the Cr.P.C.
- (iv) Criminal Revision Application is disposed of.

(SHIVKUMAR DIGE, J.)