

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.76501 of 2025

Arising Out of PS. Case No.-116 Year-2023 Thana- SHASTRINAGAR District- Patna

Abhijeet Raj S/O Late Ajay Kumar Singh Resident of Surya Mandir Road
Shrirampur, P.S- Bihta, Dist.- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Lal Babu Singh, Advocate

For the Opposite Party/s : Mr. Harendra Prasad, APP

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 20-11-2025

Heard Mr. Lal Babu Singh, learned counsel
appearing on behalf of the petitioner and Mr. Harendra Prasad,
learned APP for the State.

2. The petitioner has preferred application under Section 528 of BNSS for quashing the impugned order taking dated 07.10.2025 passed by the learned Additional Chief Judicial Magistrate- IX, Patna in connection with Sastri Nagar P.S. Case No.116 of 2023 registered under Sections 302 and 34 of the Indian Penal Code and Section 27 of Arms Act, whereby and where under process under Section 82 of Cr.P.C. has been issued against the present petitioner.

3. Learned counsel appearing on behalf of petitioner submitted that section 82 of Cr.PC process has been issued against the accused named in the FIR, however, on the



basis of name mentioned in the FIR, wherein the father of the accused namely Abhijeet Kumar has not been mentioned but at the same time the home address of the said accused has been mentioned in the FIR to be Shivpuri falling under the jurisdiction of Shastri Nagar police station. Learned counsel further submitted that the process under Sections 82 of Cr.P.C. corresponding Sections 84 of the BNSS against the petitioner is on the imaginary basis and is issued without giving any consideration of the aspect of the fact that whether the petitioner is the resident of Shivpuri is the same person who claims himself to be resident of Bihta. He also submitted that petitioner has given a detailed address, which can be gathered from the cause title of the present application. Learned counsel submitted that though the petitioner has filed anticipatory bail application before the learned District Court but considering the fact that the petitioner is not the same person, even according to the perusal of the FIR he cannot be prosecuted on the basis of allegation made in the FIR arising out of Shastri Nagar P.S. Case No.116 of 2023 lodged on 30.01.2023, as there was no question of his being apprehended. The petitioner who is a student and pursuing his studies in Sharda University, Greater Noida is suffering, having been dragged in a case which is not in concern with him



in any manner. The informant is unknown to the petitioner. As such, learned counsel submitted that the petitioner being unconcerned with the incident he don't want to press on the veracity of the allegation made in the FIR. The concern is that the order issuing summon under Section 82 of Cr.P.C. corresponding Sections 84 of the BNSS being passed in most mechanical manner, the same calls for interference of this Court in the interest of justice.

4. Learned APP appearing on behalf of the State submitted that there is no infirmity in the order. The trial Court has issued proclamation after recording reasons and believing that the petitioner has absconded for nearly 2 years, the process has been issued under Sections 82 of Cr.P.C. The petitioner in such circumstances is required to face the trial and in absence of any infirmity in the order, no interference of this Court is required.

5. Having considered the rival submissions made on behalf of the parties and before passing any order I find that the question which requires consideration is, as to whether, the concerned Magistrate has exercised his jurisdiction in accordance with law. I find it proper to reproduce the provisions contained in Sections 82 of Cr.P.C. and corresponding Sections



84 of the BNSS, which is as under;

*“Section 82 of the Code of Criminal Procedure, 1973 (CrPC) provides for the **proclamation of a person who is absconding** or concealing themselves to evade an arrest warrant.*

(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 specific 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 home-stead in which such person ordinarily 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.

(4) Where a proclamation published 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.

(5) The provisions of Sub-Sections (2) and (3) shall apply to a declaration made by the Court under Sub-Section (4) as they apply to the proclamation published under Sub-Section (1).”



6. Record reveals that after issuance of process under Section 82 of Cr.P.C. it appears that the Magistrate should act in accordance with the said Section with great circumspection. Based on the arguments and the material, which has been brought on record by learned counsel appearing on behalf of the petitioner is on the fact that the FIR didn't disclose the name of the father of accused Abhijeet Kumar and the address, which has been mentioned therein, don't relate to the address of the petitioner, who resides at a completely different place i.e. Surya Mandir Road Shrirampur, P.S.-Bihta, Patna. The petitioner has claimed that he don't have any other house than what has been mentioned in the cause title of the present quashing application. At the same time, the petitioner has already moved before the learned District Court for grant of anticipatory bail. The process under Section 83 of the Cr.P.C. is yet to be issued.

7. In such circumstances, I find that it will be in the interest of justice that till the bail application is finally adjudicated on merit, this Court directs the Investigating Officer (concerned) of the case not to arrest the petitioner till the bail application of the petitioner is finally disposed, which is pending before the learned District Court.



8. The learned District Court concerned is also directed to not act upon the application filed by the Investigating Officer for issuing process under Section 83 of Cr.P.C. corresponding Section 85 of the BNSS at this stage.

9. Accordingly, the present application stands disposed of.

(Purnendu Singh, J)

Ashishsingh/-

AFR/NAFR	NAFR
CAV DATE	NA
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