IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No.3123 of 2026

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1. Chotu Mandal aged about 47 Years S/o Yugal Mandal
2. Renu Devi aged about 43 years w/o Chotu Mandal
3. Pawan Mandal @ Pawan Kumar Mandal, aged about 27 years
4. Shravan @ Sharwan Mandal @ Sharvan, aged about 20 years both S/O Chotu Mandal,

All Resident of Village- Pokhriyadih, P.O. & P.S. Sariya, District:- Giridih … Petitioners

Versus

The State of Jharkhand … Opposite Party

For the Petitioner : Mr. A. K. Kashyap, Sr. Advocate
Ms. Tanu Kumari, Advocate
For the State : Mr. Subodh Kr. Dubey, Addl.P.P.
For the Informant : Mr. Sharabhil Ahmed, Advocate
Mr. Imran Ansari, Advocate

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 the Bharatiya Nagarik Suraksha Sanhita, 2023 with the prayer to quash the order dated 05.09.2026 passed by the learned Judicial Magistrate-1st Class, Giridih in connection with Sariya P.S. Case No.90 of 2026 whereby and where under the learned Judicial Magistrate-1st Class, Giridih has directed for issuance of the proclamation under Section 82 of Cr.P.C. against the petitioners without fixing the time and place for appearance of the petitioners; who are the accused person of the said case.

3. Learned senior counsel for the petitioners submits that the impugned order dated 05.09.2026 passed by the learned Judicial Magistrate-1st Class, Giridih in connection with Sariya P.S. Case No.90 of 2026, is not in accordance with law having been passed without fixing the time and place for the petitioners who are the accused persons of the case. Hence, it is submitted that the same be quashed and set aside.

4. Learned Addl. P. P. appearing for the State and the learned counsel for the informant on the other hand vehemently oppose the prayer of the petitioners and submit that since it is expected that the accused person in respect of whom the process under Section 82 of Cr.P.C. is issued, is required to appear before the court concerned after thirty (30) days of the proclamation is issued, hence, no illegality has been committed by the learned Judicial Magistrate-1st Class, Giridih. Hence, it is submitted that this Cr.M.P., 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 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 the proclamation under Section 82 of Cr.P.C. it must mention the time and place for appearance of the accused 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, Giridih has directed for issuance of the proclamation under Section 82 of the Cr.P.C. without fixing the time and place for appearance of the accused persons including the petitioners, hence, the impugned order dated 05.09.2026 passed by the learned Judicial Magistrate-1st Class, Giridih in connection with Sariya P.S. Case No.90 of 2026, is not sustainable in law having been passed 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 impugned order dated 05.09.2026 passed by the learned Judicial Magistrate-1st Class, Giridih in connection with Sariya P.S. Case No.90 of 2026, be quashed and set aside *qua* the petitioners named above.

6. Accordingly, the impugned order dated 05.09.2026 passed by the learned Judicial Magistrate-1st Class, Giridih in connection with Sariya P.S. Case No.90 of 2026, is quashed and set aside *qua* the petitioners named above.

7. The learned Judicial Magistrate-1st Class, Giridih or its successor court may pass a fresh order in accordance with law.

8. Accordingly, this Criminal Miscellaneous Petition, is allowed.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 5th of October, 2026
AFR/ Animesh
Uploaded on- 06/10/2026