

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34272 of 2026

Arising Out of PS. Case No.-697 Year-2024 Thana- GAURICHAK District- Patna

Vinay Kumar S/O Ramjee Ram R/O Village - Vishambar Tola, Kandap, P.S-
Gaurichak, Dist. - Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Suman Thakur, Adv.

For the Opposite Party/s : Mr. Ashok Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE ANSUL

ORAL ORDER

2 20-05-2026 Heard learned counsel for the petitioner and learned
APP for the State through video conferencing.

2. The petitioner seeks bail in connection with
Gaurichak P.S. Case No. 697 of 2024 instituted for the offences
under Sections 103(1), 352, 61(2)(a) & 351(3) of the Bharatiya
Nyaya Sanhita and section 27 of the Arms Act.

3. The allegation is that the petitioner is alleged to be
one of the 12 accused persons who came to the house of the
informant. The specific allegation is against accused Rahul
Kumar who drew out a pistol and fired upon the informant's
husband on his chest, due to which, he died on the spot.

4. Learned counsel for the petitioner submits that the
petitioner is innocent and has falsely been implicated in the
present case. Counsel submits that no role has been assigned to
the petitioner at the place of occurrence and there is no



allegation of any specific overt act against him at the place of occurrence. Counsel submits that the petitioner is in custody since 16.01.2026, having no criminal antecedent.

5. Learned A.P.P for the State has vehemently opposed the prayer for grant of bail to the petitioner.

6. The applicant is alleged to be a member of an unlawful assembly in connection with a case of homicidal death. It is, however, to be noted that no specific overt act of assault has been attributed to the applicant in either the First Information Report or in the statements of the eyewitnesses recorded under Section 161 Cr.P.C. The applicant's presence at the scene of occurrence appears to be the primary basis of his implication.

7. The Supreme Court has consistently held that mere membership of an unlawful assembly, without a specific overt act being attributed to an accused, is a factor that the court must weigh carefully while considering bail, particularly at the pre-trial stage. The vicarious liability fastened by Section 149 IPC is a liability at the time of conviction and does not by itself answer the question of bail, where the individual role of the applicant and the prima facie material against him must be examined.

8. Having regard to the fact that no specific overt act



of assault is attributed to the applicant, the period of incarceration already undergone, and the stage of trial, this Court is of the view that the applicant has made out a case for bail. The applicant is accordingly enlarged on bail subject to the following conditions:

(i) The applicant shall appear before the trial court on all dates of hearing without fail; (ii) The applicant shall not tamper with evidence or attempt to influence any witness; (iii) The applicant shall not leave the State without prior permission of this Court; (iv) Any violation of the above conditions shall entitle the prosecution to apply for cancellation of bail.

9. Considering that the petitioner has no criminal antecedent and he is in custody since 16.01.2026, this Court is inclined to grant bail to the petitioner.

10. Let the petitioner be released on bail on furnishing bail bonds of Rs.10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of Additional Chief Judicial Magistrate-II, Patna City, Patna, in connection with Gaurichak P.S. Case No. 697 of 2024.

11. It is made clear that any observation made herein is *prima facie* in nature and limited solely for the purpose of adjudication of the present bail application. Such observations



shall not be construed as an expression on the merits of the case
and shall not influence the trial or any other proceedings in any
manner.

(Ansul, J)

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