

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.670 of 2026

Arising Out of PS. Case No.-455 Year-2017 Thana- GARKHA District- Saran

1. Parmeshwar Rai Son of Ram Shakal Rai
2. Jitendra Rai Son of Rajnath Rai
3. Sunil Rail Son of Parmeshwar Rai
4. Surendra Rai Son of Gaya Rai
All resident of Village - Tahal Tola, P.S. - Garkha, District - Saran at Chapra.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Krishna Prasad Singh, Sr. Advocate Mr.Avinash Kumar Pandey, Advocate Mr.Aashish Kumar, Advocate
For the Informant	:	Mr.Kumar Harshvardhan, Advocate Mr.Anamika Anshu, Advocate Mr.Rajnikant, Advocate
For the Opposite Party/s	:	Mr.Ajit Kumar, APP

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 06-04-2026 Heard Mr. Krishna Prasad Singh, Learned Senior Advocate along with Mr. Avinash Kumar Pandey and Mr. Aashish Kumar, learned counsels appearing on behalf of the petitioners, Mr. Kumar Harshvardhan, Ms. Anamika Anshu and Mr. Rajnikant, learned counsels for the informant and Mr.Ajit Kumar, learned APP for the State.

2. Petitioner seeks pre-arrest bail in connection with Garkha P.S.Case No.455 of 2017 registered for the offences punishable under Sections 147, 148, 149, 341, 323, 324, 307, 379 and 504 of the IPC.



3. As per the allegations made in the FIR, the petitioners along with other co-accused persons with a common intention to kill assaulted the informant and his other family members, during which the uncle of the informant died on the spot.

4. Learned Senior Advocate appearing on behalf of the petitioners submitted that upon completion of investigation, the charge-sheet was submitted only against seven accused persons and in absence of any incriminating material, no charge-sheet was filed against the present petitioners. It was further submitted that during the course of trial, a petition under Section 319 of the Cr.P.C. was filed on behalf of the prosecution and vide order dated 03.03.2025, the learned trial court summoned the petitioners as additional accused persons.

5. Learned Senior Advocate submitted that although the said order has not been challenged before this Court, the petitioners are innocent and there is no material on record to establish their complicity. It was further contended that while invoking jurisdiction under Section 319 Cr.P.C., the learned trial court did not arrive at the requisite degree of satisfaction and there is every likelihood that the petitioners may not ultimately be convicted.



6. Learned Senior Counsel further submitted that in absence of cogent evidence, there is a strong likelihood of acquittal of the petitioners and thus the petitioners deserve to be released on pre-arrest bail.

7. Learned counsel referring to the FIR submitted that there are general allegations against petitioner nos. 1, 2 and 3 of assault upon the informant, who is an eye-witness. Petitioner no. 4 along with other co-accused persons, namely Umesh Rai, Shriram Rai and Guddu Kumar, assaulted the uncle of the informant, who died on the spot. Learned counsel further submitted that the injuries sustained by the informant are simple in nature and not corroborated by any strong supporting evidence. Learned counsel also submitted that due to inadvertence, certain pleadings could not be properly placed on record by the Advocate-on-record, however, even considering the materials available during trial, petitioner nos. 1, 2, and 3 have a fair chance of acquittal.

8. Learned Senior Counsel also submitted that even in serious offences under Section 302 of the IPC, the petitioners fall within the exceptions carved out by the Hon'ble Supreme Court for grant of anticipatory bail. The learned counsel has also undertaken on behalf of the petitioner that the petitioners will



abide by the conditions imposed by this Court

9. *Per contra*, learned counsel appearing on behalf of the informant submitted that a bare perusal of the FIR clearly discloses that the petitioners with a common intention to kill assaulted the informant and his other family members, resulting into death of the informant's uncle. It is further submitted that the case is of the year 2017 and the learned trial court has taken note of the fact that the petitioners had influenced the Investigating Officer and tampered with the evidence. Learned counsel also submitted that there is every likelihood of further tampering with evidence if the petitioners are granted anticipatory bail. Hence, they do not deserve to be released on pre-arrest bail.

10. Having heard the rival submissions made on behalf of the parties, as well as, having perused the FIR, case diary and order dated 03.03.2025, this Court finds that the informant is an eye-witness, who has specifically alleged that petitioner nos. 1, 2, and 3 assaulted him and as per the medical evidence, the injuries sustained by the informant are simple in nature. The present application has been filed after considerable delay of nearly one year, for which no satisfactory explanation has been given. Learned counsel fairly submitted that he is



unable to justify the delay, though he reiterated that bail is the rule and jail is the exception.

11. The Apex Court in Criminal Appeal No. 227 of 2018, ***Dataram Singh vs. State of Uttar Pradesh & Anr*** decided on 06.02.2018 has held as under:

“1. A fundamental postulate of criminal jurisprudence is the presumption of innocence, meaning thereby that a person is believed to be innocent until found guilty. However, there are instances in our criminal law where a reverse onus has been placed on an accused with regard to some specific offences but that is another matter and does not detract from the fundamental postulate in respect of other offences. Yet another important facet of our criminal jurisprudence is that the grant of bail is the general rule and putting a person in jail or in a prison or in a correction home (whichever expression one may wish to use) is an exception”.

12. The Apex Court in ***Manno Lal Jaiswal Vs the State of Uttar Pradesh & Anr (Criminal Appeal No. 97 of 2022)*** has observed that while granting bail, the relevant considerations are (i) nature of seriousness of the offence; (ii) character of the evidence and circumstances which are peculiar to the accused; and (iii) likelihood of the accused fleeing from justice; (iv) the impact that his release may make on the prosecution witnesses, its impact on the society; and (v) likelihood of his tampering.

13. It is well settled that gravity alone cannot be a decisive ground to deny bail, rather competing factors are



required to be balanced by the Court while exercising its jurisdiction. ***“A person is believed to be innocent until found guilty”.***

14. It appears that petitioner nos. 1, 2, and 3 are alleged to have participated in the occurrence. However, no specific overt act has been attributed to them. The allegations against these petitioners are general and omnibus in nature. Accordingly, petitioner nos. 1, 2, and 3 are directed to be released on pre-arrest bail, in the event of their arrest or surrender before the learned District Court within a period of four weeks from today, upon furnishing bail bonds of ₹10,000/- (Rupees Ten Thousand) each, with two sureties of the like amount each, to the satisfaction of the learned A.D.J.-IX, Saran at Chapra, or the concerned court, in connection with Garkha P.S. Case No. 455 of 2017, subject to the conditions laid down under Section 482(2) of the BNSS, 2023.

15. The learned court below is directed to verify the criminal antecedents of the petitioners and in case it is found that they are involved in any other criminal case(s), as stated in paragraph 3 of the bail application, this order shall automatically stand cancelled.



16. So far as petitioner no. 4 is concerned, there is a specific and direct allegation that he along with other co-accused persons assaulted the uncle of the informant with an intention to kill him and he died on the spot. Out of those co-accused, four have already been convicted. In view of the gravity of the allegation, this Court is not inclined to grant pre-arrest bail to the petitioner no. 4.

17. With the aforesaid observations and directions, the present bail application stands disposed of.

(Purnendu Singh, J)

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