

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60135 of 2023

Arising Out of PS. Case No.-256 Year-2022 Thana- PANDAUL District- Madhubani

1. SUNIL YADAV @ SUNIL KUMAR YADAV S/O DEVAN YADAV R/O VILLAGE- RAMPUR, PS. PANDAUL, DIST. MADHUBANI
2. SURESH KUMAR YADAV @ SURESH YADAV S/O SITA RAM YADAV R/O VILLAGE- RAMPUR, PS. PANDAUL, DIST. MADHUBANI

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Gagan Deo Yadav, Advocate
		Mr. Ravi Prakash, Advocate
For the Opposite Party/s	:	Mr. Tapeswar Sharma, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 08-09-2023 Heard learned counsel appearing on behalf of the parties.

2. The petitioners seek bail in connection with Pandaul P.S. Case No. 256 of 2022 registered for the offence under Sections 302/34 of the Indian Penal Code.

3. The accused/petitioners are named in the F.I.R. and are in custody since 10.05.2023.

4. The allegation against both petitioners is to commit murder of the brother of the informant along with other co-accused persons, by assaulting with *lathi*, rod, etc. where, occurrence is arises out of uploading of obscene photographs of wife of deceased, on Facebook.



5. Learned counsel appearing on behalf of the petitioners submitted that though allegations regarding uploading of obscene photographs of the wife of deceased is available specific against petitioner no. 2, namely, Suresh Kumar Yadav but as far allegation regarding assault is concerned, same is appearing very much general and omnibus against both petitioners including co-accused, namely, Sita Ram Yadav @ Sitaram Yadav who has granted bail by one of the learned co-ordinate Bench of this Court through Cr. Misc. No.6814 of 2023 dated 13.07.2023. It is submitted that informant is not the eye-witness of this occurrence as his entire information regarding crime in question is based upon hearsay input of his relative Pradeep Kumar Yadav, who accompanied deceased to his in-laws village, where occurrence took place. It is also pointed out that the genesis of occurrence is based upon obscene photographs sent to deceased's mobile but no evidence was collected in this regard and also no mandatory certificate was obtained in view of Section 65-B of the Indian Evidence Act which is mandatory *qua* electronic evidence. It is further submitted that as a matter of parity, petitioners are entitled to be enlarged on bail. While concluding the argument, it is submitted that petitioners are men of clean antecedents and moreover,



investigation of this case is completed, for which, charge-sheet has already submitted, as such, there is no chance of tampering with the evidence.

6. Learned APP appearing on behalf of the State, opposes the prayer of bail.

7. Considering the facts and circumstances as mentioned above and by taking note of the fact as allegation of assault *prima facie* appearing general and omnibus against these petitioners, which is based upon hearsay input, where both petitioners are of clean antecedents, coupled with the fact that charge-sheet has already submitted, where, petitioners are in custody since 10.05.2023, accordingly, both petitioners, above named, are directed to be released on bail in connection with Pandaul P.S. Case No. 256 of 2022 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Madhubani/concerned court, subject to the condition as mentioned under Section 437(3) of the Cr.P.C.

(Chandra Shekhar Jha, J)

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