

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.2128 of 2021

1. Baikunthanatha Khilar

**2. Dakshyaraj Khilar @
Dakshya**

**3. Biswamitra Khilar @
Bisu**

.... Petitioners

Mr. A. Mishra, Advocate

-versus-

State of Odisha

.... Opp. Party

*Mr. D.K. Pani
Addl. Standing Counsel*

**CORAM:
JUSTICE S.K. SAHOO**

**ORDER
09.03.2022**

Order No.

03. This matter is taken up through Hybrid arrangement (video conferencing/physical mode).

Heard learned counsel for the petitioners and learned counsel for the State.

This is an application under section 438 Cr.P.C. for grant of anticipatory bail to the petitioners in connection with C.T. Special Case No.13 of 2021 arising out of Sukinda P.S. Case No.32 of 2021 pending in the Court of learned J.M.F.C., Sukinda for alleged commission of offence under section 302/34 of the Indian Penal Code.

Perused the F.I.R.

Learned counsel for the petitioners submitted that though the petitioners have been named in the first

information report but no specific overt act has been alleged against them and the petitioners have been granted interim protection since 16.03.2021 and they have not misutilized their liberty and therefore, the anticipatory bail application of the petitioners may be favourably considered.

Learned counsel for the State placed the statement of Sarathi Das from which it appears that while the deceased Sisir Natia had been to attend the call of nature, the co-accused Minza Khilar, who is the father of petitioner no.1 assaulted him by bamboo lathi repeatedly on the head as a result of which he sustained injuries and he was shifted to the hospital and subsequently died. It is stated that at the instance of petitioner no.1, the co-accused Minza Khilar assaulted the deceased.

Learned counsel for the State after going through the case record fairly submitted that there is no specific material so far as petitioners nos.2 and 3, namely, Dakshyaraj Khilar @ Dakshya and Biswamitra Khilar @ Bisu are concerned.

Considering the submissions made by the learned counsel for the respective parties, while not inclining to grant anticipatory bail to the petitioner no.1 Baikunthanatha Khilar, it is observed that in the event he surrenders in the Court below within a period of four weeks from today and moves for bail, the same shall be disposed of as expeditiously as possible by the Courts below in accordance with law. The case records shall be made available to the Court concerned for adjudication of the bail application.

So far as petitioners nos.2 and 3 are concerned, since the eye witnesses are not implicated specific overt act against them and nor there is any material against them on record in relation to the commission of murder of the deceased Sisir Natia, I am inclined to release them on anticipatory bail. Accordingly, this Court directs that in the event of arrest of petitioner no.2 Dakshyaraj Khilar @ Dakshya and petitioner no.3 Biswamitra Khilar @ Bisu in connection with the aforesaid case, they shall be released on bail on furnishing bail bond of Rs.10,000/- (rupees ten thousand) each with two sureties each for the like amount to the satisfaction of the arresting officer with further conditions that they shall make themselves available for interrogation by the I.O. as and when required and they shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to the Investigating Officer.

Violation of any of the above conditions shall entail cancellation of bail.

The ABLAPL is accordingly disposed of.

Urgent certified copy of this order be granted on proper application.

(S.K. Sahoo)
Judge

RKM