

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**ABLAPL No.2138 of 2021**

**1. Kamalesh Samarth**

**2. Sesa Samarth**

**.... Petitioners**

*Mr.T.K. Mishra Nayak, Advocate*

**-versus-**

**State of Odisha**

**.... Opp. Party**

*Mr.J.P. Patra,  
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 Kotpad P.S. Case No.22 of 2021 corresponding to G.R. Case No.22 of 2021 pending in the Court of learned J.M.F.C., Kotpad for alleged commission of offences under sections 294/323/325/307/34 the Indian Penal Code.

Learned counsel for the State on instruction submitted that the injured Arobinda has died in the

meantime and that is how the case has turned to one under section 302 of the Indian Penal Code and he placed the statement of Prafulla Kurmi, from which it appears that these two petitioners along with their father assaulted the deceased Arobindo @ Harnish Nag. The learned counsel for the State however pointed out that the date of birth of the petitioner no.1 is 21.08.2008 and that of petitioner no.2 is 02.07.2008 and both the petitioners are children. He further submitted that they have no criminal antecedents and they are juvenile.

Considering the nature of accusation against both the petitioners and the provision under section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015, the interim order dated 16.03.2021 is made absolute.

The ABLAPL is accordingly disposed of.

Issue urgent certified copy as per Rules.

**( S.K. Sahoo )**  
**Judge**