

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.2530 of 2021

1. Sunita Behera @

Anupama Behera

2. Sri Kumar Behera

....

Petitioners

Mr. A.Mohanty, Advocate

-versus-

State of Odisha

....

Opp. Party

Mrs. Susamarani Sahoo,

Addl. Standing Counsel

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

**ORDER
16.02.2022**

Order No.

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

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

This is an application under section 438 of Cr.P.C. for grant of anticipatory bail to the petitioners in connection with Rajkanika P.S. Case No. 42 of 2021 corresponding to G.R. Case No.78 of 2021 pending in the Court of learned J.M.F.C., Aul for the commission of the alleged offences punishable under sections 498-A, 302, 304-B/34 of the Indian Penal Code and section 4 of the Dowry Prohibition Act.

Learned counsel for the petitioners submitted that though initially the case was registered under section 302 of the Indian Penal Code along with other offences, but during the course of investigation, the case turned to one under section 306 of the Indian Penal Code. It is further submitted that petitioner no.1 is the sister in-law and petitioner no.2 is the brother in-law of the deceased and they were not present in the house where the alleged occurrence took place and there are no such materials to attract the ingredients of the offences against them. It is further submitted that on being affected by Covid-19, the deceased was hospitalized and during the course of her treatment, she expired and thereafter the present case has been fabricated against the petitioners. Learned counsel further submitted that the husband of the deceased, namely, Ganga @ Pravakar Behera has already been released on bail by this Court in BLAPL No. 5471 of 2021 as per order dated 20.07.2021 and therefore, the anticipatory bail application may be favourably considered.

Learned counsel for the State, on the other hand, opposed the prayer for anticipatory bail and placed the statements of the witnesses from which the involvement of the petitioners relating to physical and mental torture finds place.

Considering the submissions made by the learned counsel for the respective parties, while not

inclining to grant anticipatory bail to the petitioners, it is observed that in the event the petitioners surrender and move for bail before the Court below within a period of four weeks from today, the learned Court below shall dispose of the same expeditiously in accordance with law. While disposing of the bail application, the learned Courts below shall keep in mind the proviso to section 437 (1) of Cr.P.C. so far as petitioner no.1 is concerned. The case records shall be made available to the Courts concerned for disposal of the bail application.

The ABLAPL stands disposed of.

The interim order dated 18.03.2021 stands vacated.

Issue urgent certified copy as per Rules.

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

PKSahoo