

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.4552of 2022

Jadumani Sahoo and another

..... Petitioners
Mr.Rajjeet Roy,Advocate

-versus-

State of Odisha

..... Opp. Party
Mr.S.Patra,A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

17.10.2022

Order No.

- 05.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. The Petitioners are apprehending their arrest for the alleged commission of offence under Sections 302/34 of the Indian Penal Code in G.R.Case No.452 of 2022 arising out of Khurda Sadar P.S.Case No.47 of 2022 of the Court of the learned S.D.J.M., Khordha.
 3. It is submitted by Mr.Ray, learned counsel for the Petitioners that due to release of waste water from the house of the present Petitioners, a dispute arose between the Petitioners' family and the informant's family, as a result of which a scuffle took place between the two families. It is further submitted by the learned counsel for the Petitioners that out of sudden provocation, the deceased was assaulted by slaps, fist blows and kicks. The deceased fell down at

the spot and then he was shifted to hospital, where he was declared dead. It is further submitted by the learned counsel for the Petitioners that the deceased had a pre-deceased disease of hypertrophic. Further, it is submitted by the learned counsel for the Petitioners that on careful examination of the P.M. report it is found that there is no external injury on the part of the deceased and the cause of death is stated to be trauma caused due to kick blows on the belly.

5. Learned counsel for the informant submits that the deceased was brutally assaulted by means of fist blows, as a result of which he sustained internal injury for which the deceased died at the spot. On such ground the informant opposes the prayer for bail of the Petitioners.

6. Learned counsel for the Petitioners submits that the deceased was assaulted by means of fist blows. However, the Doctor has opined that the cause of death was due to kick blows on the belly resulting in trauma. It is further submitted by the learned counsel for the Petitioners that some of the accused persons stand on similar footing have already been released on bail by this Court in BLAPL No.5382 of 2022 by order dated 29.09.2022.

7. Considering the facts of the case, this Court is not inclined to grant anticipatory bail to the Petitioners.

4. However, on the submission of the learned counsel, the Petitioners are given liberty to surrender before the learned S.D.J.M., Khordha in the aforesaid case in the first hour within 21 working days hence and move for bail. On such event, the learned Magistrate shall consider their application for bail in the first hour strictly on the basis of the materials on record. In case of rejection of the bail

application, the Petitioners may move for bail before the higher forum in the second hour. On such event, the higher forum shall consider and dispose of the bail application of the Petitioners on the same day strictly on the basis of the materials on record by maintaining the principles of parity, if applicable.

5. Case Diary be made available to the concerned courts. Records be transmitted to the higher forum at the cost of the Petitioners, if applied for.
6. The ABLAPL is accordingly disposed of.
7. Issue urgent certified copy of the order as per Rules.



RKS