



SIN THE HIGH COURT OF ORISSA AT CUTTACK
ABLAPL No.11024 of 2025

Sangram Keshari ***Petitioner***
Behera

Mr. M. Kanungo, Sr. Advocate
Mr. Y. Parekh, Advocate

-versus-

1.State of Odisha ***Opposite Parties***
2.Abhiram Mohapatra

Mr. S. Panda, ASC
Mr. R. Behera, Advocate
(Informant)

ABLAPL No.11083 of 2025

Manmath Kumbha ***Petitioner***

Mr. R.K. Jena, Advocate

-versus-

1. State of Odisha ***Opposite Parties***
2. Abhiram Mohapatra

Mr. S. Panda, ASC
Mr. R. Behera, Advocate
(Informant)

CORAM: JUSTICE V. NARASINGH

DATE OF HEARING : 16.10.2025

DATE OF ORDER : 23.10.2025

Order No.

04. **1.** Since both the ABLAPLs arise out of the order dated 12.04.2023 by which cognizance was taken by the learned S.D.J.M., Paralakhemundi against them under Sections 302/120-B IPC, they were taken up for consideration and disposed of by this common order.



2. The Petitioners are seeking anticipatory bail in connection with ICC No.22 of 2022 corresponding to G.R Case No.334 of 2021 pending in the Court of learned S.D.J.M, Paralakhemundi, arising out Paralakhemundi P.S. Case No.141 of 2021 for commission of offences punishable under Sections 302/201-B IPC.

3. Brief facts germane for adjudication run thus:

Paralakhemundi P.S. Case No.141 of 2021 corresponding to G.R. Case No.334 of 2021 on the file of the learned S.D.J.M., Paralakhemundi was instituted under Sections 302/120-B IPC in which the Petitioner in ABLAPL No.11024 of 2025 who was working as D.F.O., Paralakhemundi Sub-Division and the Petitioner in ABLAPL No.11083 of 2025 who was the Cook of the DFO were arraigned as accused Nos.2 and 3 for allegedly committing the murder of one Soumya Ranjan Mohapatra, Assistant Conservator of Forest of Paralakhemundi Sub-Division along with one Ms. Bidyabharati Panda wife of the deceased (Somya Ranjan Mohapatra, ACF) (cited as Accused No.1).

Considering the sensitive nature of the case, the investigation was handed over to the C.I.D., Crime Branch, Cuttack and numbered as CID P.S. Case No.12 of 2021.

After thorough investigation, CID, Crime Branch submitted the charge sheet under Sections



285/304-A IPC against the wife of the deceased, absolving the Petitioners of the charges.

Being aggrieved by the same, father of the deceased who was the Informant filed ICC No.22 of 2022 by way of "protest petition" in the Court of learned S.D.J.M., Paralakhemundi.

In the said complaint petition, initial statement of the Complainant father of the deceased (Soumya Ranjan Mohapatra) and three other witnesses were recorded. Considering the same, by order dated 12.04.2023, learned S.D.J.M., Paralakhemundi took cognizance of the offence under Sections 302/120-B IPC and came to a finding that there are sufficient materials to proceed against the present accused persons and issued process against them.

3-A. Assailing such order, the Petitioner in ABLAPL No.11024 of 2025, namely, Sangram Keshari Behera, approached this Court in CRLMC No.2548 of 2023 which was disposed of by order dated 03.07.2025 without interfering with such order of cognizance by giving liberty to the Petitioner to pursue other remedies in accordance with law including seeking for discharge.

It is apposite to note here that while disposing of CRLMC No.2548 of 2023 at the instance of the Petitioner in ABLAPL No.11024 of 2025 this Court referred to its earlier order dated 03.07.2025 passed



in CRLMC No.2565 of 2023 which was at the instance of the wife of the deceased (Ms. Bidyabharati Panda).

4. Apprehending that on their appearance they will be remanded to custody since ex facie the Petitioners are accused of the commission of sessions triable offence and order of N.B.W of arrest was issued by order dated 14.08.2025 by the learned Court in seisin, they have approached this Court seeking anticipatory bail.

5. It is submitted by the learned counsel for the Petitioner in ABLAPL No.11024 of 2025, Mr. Kanungo, learned Senior Advocate instructed by Mr. Parekh, that in a thorough investigation which was conducted by the Crime Branch in which the Petitioner in ABLAPL No.11024 of 2025 has fully cooperated the investigating agency has filed the final form in the nature of charge sheet under Sections 285/304-A IPC, only against the wife of the deceased (Ms. Bidyabharati Panda). Since no further investigation has been directed merely because cognizance has been taken under Sections 302/120-B IPC, the Petitioner ought not to be denied the protection of anticipatory bail.

5-A. Learned counsel appearing for the Petitioner in ABLAPL No.11083 of 2025, Mr. R.K. Jena submitted that the Petitioner has also cooperated with the investigation. There is no iota of allegation against the present Petitioner. Hence, merely because of



taking cognizance, the Petitioner ought not to be denied the benefit of anticipatory bail.

In this context, he relied heavily on the statement of one of the witnesses, namely, K.B. Bhaskar Rao who was posted as ACF and a colleague of the deceased (Soumya Ranjan Mohapatra) at the relevant time.

6. This Court is conscious of the parameters for considering an anticipatory bail application which has been reiterated in the order of the Apex Court in the case of **Satender Kumar Antil vrs. Central Bureau of Investigation & another**¹.

It is trite that in considering a bail application more so an anticipatory bail application detailed examination of the materials on record is not warranted, in fact such detailed analysis is to be shunned. In this context reference can be gainfully made to the time tested judgment of the Apex Court in the case of **Kalyan Chandra Sarkar vrs. Rajesh Ranjan**².

7. In the case at hand, learned counsel appearing for the Petitioners relied heavily on the tenor of the dying declaration by which the deceased did not allege any culpability and stating the same to be an accident.

While detailed examination of the material is to be avoided but it is urged by the learned counsels

¹ 2023 SCC Online SC 452

² (2004) 7 SCC 528



for the State as well as the Informant that there are prima facie materials to indicate that the dying declaration was recorded with the sole purpose of shielding the accused persons. Admittedly the deceased had suffered 95% burn injury. Hence, in the light of such injury it was not possible to make the statement that too in a narrative form.

In this context, learned counsels for the State as well as the Informant relied on the statement of the doctor Dr. Abhilas Panda who treated the deceased on his arrival at the hospital indicating that to save the life of the patient, left leg of the patient had to be operated to get a vein for injection of fluids.

It is also asserted by the learned counsel for the State as well as the Informant that very requisition for recording the dying declaration was made at **11.10 P.M** and it was consistently on record that pursuant to such requisition the Executive Magistrate appeared and in whose presence the dying declaration was recorded.

But in the dying declaration the time has been mentioned as **11.05 P.M.**

7-A. On perusal of the record, it comes to fore that the Tahasildar-cum-Executive Magistrate stated that on 12.07.2021 at 10.30 P.M to 10.40 PM he received a letter from the Additional District Magistrate, Gajapati to act as the Magistrate for recording the dying declaration of the deceased (ACF



Samyaranjan Mahapatra). The said office order dated 12.07.2021 which is part of the case diary is extracted hereunder:

OFFICE OF THE COLLECTOR & DISTRICT MAGISTRATE, GAJAPATI

No: 5650 /Judicial/ VII-17/2021 Dated:12-07-2021

OFFICE ORDER

Sri Achyutananda Jani, OAS-A (JB), Tahasildar, Paralakhemundi-cum-Executive Magistrate is hereby deployed as such to remain present at District Headquarters Hospital, Gajapati, Paralakhemundi on 12.07.2021 during recording of statement (dying declaration) of the injured Samyaranjan Mahapatra, S/O.Abhiram Mahapatra, Vill-Khaira, PS-Khaira, Dist-Baleswar at present ACFO at Divisional Forest Office, Paralakhemundi.

Addition District Magistrate,
Gajapati.

Memo No. 5651 /Judicial Dated:12-07-2021

Copy forwarded to Executive Magistrate concerned for information and necessary action.

Copy forwarded to Inspector-in-Charge, Model Police Station Paralakhemundi for information and necessary action with reference to his letter No.2225/PS dated.12.07.2021 received at 8.30 PM.

Addition District Magistrate,
Gajapati.

Memo. No. 5652 /Judicial Dated:12-07-2021

Copy forwarded to the Superintendent of Police, Gajapati/ Sub-Collector-cum-Sub-Divisional Magistrate, Paralakhemundi for information and necessary action.

Copy
18.08.21

Addition District Magistrate,
Gajapati.

7-B. On a bare perusal of the same, it can be seen that reference has been made therein to the requisition/letter of the IIC of Model Police Station,



Paralakhemundi **received at 8.30 P.M.** The same is in stark contrast to the requisition of the dying declaration which is also on record indicating that the requisition was sent at 11.10 P.M.

It is worth noting that at 9.30 P.M only on 12.7.2021 the police got the information of the ACF Soumya Ranjan Mohapatra (since deceased) having been admitted in Paralakhemundi with history of burn injury (CD I as against sub-heading "note")

7-C. Reference is also made by the learned counsel for the Informant, Mr. Behera to the post-mortem report and on dissection, it was found that **"Carbon particles found sticking to the mucosa of larynx, trachea, bronchus and bronchioles"** and referring to the same, it is submitted that the stand taken by the investigating agency during investigation and reiterated by the Petitioners that the deceased was able to speak has to be viewed with grave suspicion and lends credence to his assertion that the entire exercise has been carried out only to waylay the investigation.

Per contra, learned Senior Counsel Mr. Kanungo and Mr. Parekh, learned counsel for the Petitioner in ABLAPL No.11024 of 2025 relied on the judgment of the apex Court in the case of **Purshottam Chopra and another vrs. State**



(Government of NCT of Delhi)³, and submitted that even in the case of 100% burn injury there are instances of dying declaration having been recorded and in the said context, the assertions of the dying declaration being a concocted one has to be negated.

7-D. It is submitted by the learned counsel for the State, Mr. Panda that as per the dying declaration, while the deceased was burning a book by pouring kerosene, he slipped and kerosene fell upon him and caught fire. However, as per the seizure list, a green colour plastic bottle of 1 ltr capacity containing approximately 200 gm of kerosene with its cap closed was found kept on a wooden table inside the house. No half burning book or its ashes were seized from the spot house, it has been concluded in the investigation that "No mark of violence was detected from the spot". It is submitted that the deceased succumbed to death by sustaining 95% burn injury by means of kerosene whereas no signs of burning of any articles or blackening of surrounding places were seen at the spot, is per se improbable.

It is further submitted that the dying declaration is not believable on account of last line of such dying declaration that there was no

³ (2020) 11 SCC 489



domestic family dispute. Since there is material on record to suggest that there was marital discord between the deceased and his wife due to alleged intimacy between the Petitioner in ABLAPL No.11024 of 2025 and the wife of the deceased.

While referring to the post mortem report and the extent of internal injuries sustained by the victim, this Court finds force in the submission of the learned counsel for the Informant that in the given scenario, certificate of the treating doctor that the victim is capable of giving dying declaration is vital to ascertain the exact course of events which is admittedly not there. And, further non-mentioning of the details as to whether victim himself has written the dying declaration or as to who has scribed the same especially, when the dying declaration is conspicuously silent regarding such certificate, invalidates the said dying declaration since it is impossible for a person having 95% burn injury to write and significantly the Gazetted Officer as well as the Medical Officer in whose presence the alleged declaration was recorded, do not throw light regarding this aspect.

In this context, learned counsel for the Informant submitted that on a bare perusal, the judgment relied upon by the learned counsel for the Petitioner can be distinguished, inter alia, referring



to the type of burn suffered in the reported judgment **Purshottam Chopra (supra)**³ with reference to the post-mortem in the case at hand, which has been extracted hereinabove. It is thus submitted that recording of dying declaration cannot be considered oblivious of such background.

It is the further submission of the learned counsel for the Informant that patent discrepancy relating to the time of recording of the alleged dying declaration ought not to be lost sight of, since the same assumes significance taking into account the background and the manner in which the dying declaration has been relied upon by the investigating agencies to insulate and shield the accused.

8. Learned counsel for the Petitioners in both the bail applications submitted that in view of the statement of the doctor recording the dying declaration along with that of the Executive Magistrate, questions relating to the veracity of the same ought not to be entertained at this stage. More so as there is no material on record that the accused persons have in any way interfered with the investigation.

Since the Petitioners are government servants, there being no chance of absconding or in the absence of any allegations that they will



influence the witnesses, they should be protected by anticipatory bail.

9. As noted, it is pointed by the learned counsels for the State as well as the Informant that the story as being developed in the dying declaration that kerosene accidentally fell on the deceased while he was burning old book and other materials is ex facie a cooked up one. In this context reference is made to the seizure list reflecting seizure of closed bottle of kerosene and absence of seizure of any half burnt book or remnants thereof.

It is submitted that since on prima facie analysis of the materials on record this Court has upheld the order of cognizance, inter alia, under Section 302 IPC, the Petitioners who were the named accused ought not to be protected by anticipatory bail.

10. It is apposite to state that since the dying declaration was heavily relied upon by the Petitioners to state that notwithstanding the order of cognizance there is no prima facie material to proceed against the Petitioners, this Court had to refer to the above materials on record.

11. The present Petitioners are accused of commission of offence under Section 302/120-B IPC on account of an order of cognizance which stood the



scrutiny of this Court and it is stated at the Bar that the same has attained finality.

12. At the cost of repetition, admittedly the present Petitioners were the named accused for commission of offence under Sections 302/120-B IPC. It is vehemently stated by the learned counsels for the State as well as the Informant that soon before the death, the deceased told his father-Informant that he is apprehending danger to his life at the instance of his wife and DFO (Petitioner in ABLAPL No.11024 of 2025) since he came to know about their illicit relationship. He has also named the Cook (Petitioner in ABLAPL No.11083 of 2025). The same has been stated by the Informant during the investigation in the G.R. Case as well as in the Complaint Case.

And, in the light of the same, it is submitted by the learned counsels for the State and the Informant that the Petitioners ought not to be protected by anticipatory bail.

Since learned Court is in seisin of the matter, this Court refrains from making any observations regarding the evidentiary value of such statement vis-à-vis the role ascribed to the Petitioners in both the ABLAPLs.

13. Considering the materials on record qua the accusation vis-à-vis under Sections 302/120-B IPC, this Court does not find any merit in the submission



that the present Petitioners have to be granted “exceptional remedy” of anticipatory bail.

14. Accordingly, the ABLAPLs stand rejected. Interim orders stand vacated.

15. However, it shall be open for the Petitioners to surrender and move for bail. In such event, their applications shall be considered on its own merit without being prejudiced by the rejection of their ABLAPLs.

It is apt to clarify that the observation/analysis made hereinabove is only for the purpose of consideration of the prayer of the Petitioners for grant of anticipatory bail. Such observation/analysis ought not be construed as this Court expressing any view regarding culpability of the Petitioners which has to be established in an independent manner.

(V. Narasingh)
Judge

*Orissa High Court, Cuttack,
Dated the 23rd October, 2025/Pradeep*