

**Court No. - 70**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 20805 of 2022

**Applicant :-** Rajnish

**Opposite Party :-** State of U.P.

**Counsel for Applicant :-** Ashish Kumar Singh, Pradeep Kumar Singh

**Counsel for Opposite Party :-** G.A.

**Hon'ble Ajay Bhanot, J.**

By means of this bail application, the applicant has prayed to be enlarged on bail in Case Crime No. 556 of 2011 at Police Station Chaubepur District Varanasi under Sections 147, 148, 149, 302, 201, 120B, 34 I.P.C. The applicant is in jail since 26.04.2011.

The bail application of the applicant was rejected by learned Sessions Judge, Varanasi, on 19.04.2022.

Shri Ashish Kumar Singh, learned counsel for the applicant contends that the applicant has been falsely implicated in the instant case. The applicant is the brother-in-law of the deceased. The applicant did not torture the deceased nor did he demand dowry. In fact he never interfered the marital life of the deceased and her husband. The applicant was nominated only out of malafides. Prosecution evidence does not connect the applicant with the offence. Learned counsel for the applicant contends that the applicant does not have any criminal history apart from the instant case.

Shri Ashish Kumar Singh, learned counsel for the

applicant further contends that the applicant is in jail since 26.04.2011 i.e. more than 11 years. Inordinate delay in concluding trial had lead to virtually an indefinite imprisonment of the applicant without the prosecution evidence connecting the applicant to the offence. The right of the applicant to speedy trial has been violated. The applicant has always cooperated with the investigation proceedings and has joined the trial as a law abiding citizen.

This is the first bail application which has been moved by the applicant before this Court. The applicant belongs to the bottom heap of humanity and unfortunately forgotten class of citizens. He did not have the resources to engage a counsel nor was he given to access to legal aid for these long years. Constitutional promise of securing justice has been denied to him.

This appears to be a systemic failure. The Court will observer no further. However, it is for all instruments of governance, the trial courts, the police authorities, the legal services authorities to introspect and bring about necessary systemic corrections with the conviction that such a state of affairs will not be repeated. Never again. The District Legal Services Authorities in the State of Uttar Pradesh shall draw up a list of prisoners who are incarcerated for long period and examine whether they have not been able to move bail applications due to penury and lack of access to legal aid. Corrective

measures should accordingly be taken. Legal aid workshop should be conducted in every jail in the State of Uttar Pradesh to ensure that such grievances are promptly redressed.

Learned AGA for the State could not satisfactorily dispute the aforesaid submissions.

I see merit in the submissions of learned counsel for the applicant and accordingly hold that the applicant is entitled to be enlarged on bail.

In the light of the preceding discussion and without making any observations on the merits of the case, the bail application is allowed.

Let the applicant- **Rajnish** be released on bail in the aforesaid case crime number, on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court below. The following conditions be imposed in the interest of justice:-

(i) The applicant will not tamper with the evidence during the trial.

(ii) The applicant will not influence any witness.

(iii) The applicant will appear before the trial court on the date fixed, unless personal presence is exempted.

(iv) The applicant shall not directly or indirectly make 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 to any police officer or tamper with the evidence.

In case any averment made in the bail application or the submissions during the course of argument are found to be false or in case of breach of any of the above condition, the State/prosecution may move an application for cancellation of bail application.

**Order Date :- 6.8.2022**

Dhananjai