

**HIGH COURT OF JAMMU AND KASHMIR
AT JAMMU**

(Through Virtual Mode)

Reserved on : 28.05.2020

Pronounced on: 03.06.2020

EMG-Bail Appl. No. 16/2020

Rajesh Kumar

...Applicant

Through :-Mr. Rahul Pant, Advocate with
Mr.Prem Sadotra, Advocate

v/s

Union Territory of Jammu and Kashmir

...Non-applicant

Through :- Mr. Amit Gupta, AAG

Coram: HON'BLE MR. JUSTICE PUNEET GUPTA, JUDGE

ORDER

1. The application has been filed by the applicant for grant of bail in anticipation of his arrest in FIR No. 0031 dated 24.01.2020 registered with Police Station, Nagrota for the offences under Sections 467/468 IPC on the ground that the applicant has been roped in the case without any basis though the name of the applicant was not mentioned initially in the FIR. The allegation against the applicant is regarding attestation of mutation which is a judicial function and can be questioned before the appellate or revisional authority in case someone is aggrieved of the same. The mutation was attested on the basis of the field report received by the applicant and after spot verification.
2. The applicant has also questioned the registration of the case for the offences under the Indian Penal Code when the same has been made applicable with effect from 31.10.2019 when the Jammu and Kashmir Reorganization Act, 2019 came into force. The applicant had earlier

approached the court of Special Judge (Anti-Corruption), Jammu for grant of bail in anticipation of arrest but the same was dismissed by the court on 18.03.2020. The applicant has no criminal record and being a Gazetted Officer, there is no possibility of the applicant fleeing from justice in case the bail is granted in favour of the applicant.

3. The objections to the application have been filed by the non-applicant wherein the fudging in the revenue record with regard to Mutation No. 1424 of land bearing Khasra No. 1101 of Village Jagti by the Patwari Riaz Ahmed in connivance with the certain land grabbers is mentioned and the land in question was the subject matter of sale deeds also in violation of the position as originally stood in the revenue record. As per the objections, there is huge bank transactions in the accounts of the main accused and other accused involved in the case so far as purchase of the land in concerned. As per the objections, the FIR has been filed for offence under Sections 447/467/468/420/120-B IPC, Section 3 Public Property Damage Act, Section 7 P. C. Act and 3/4/25 Arms Act. The applicant and Riaz Ahmed then Patwari Jagti are stated to have misused official position and took illegal monetary consideration in order to make illegal entry in Mutation No. 1424 though the land was State land. The bank details of the various transactions are yet to be verified. The investigation of the case is still in progress. The applicant has not cooperated in the investigation. The bail application moved by the applicant before the trial Court has been rightly dismissed as per the submission made on behalf of the respondent. Lastly, it is argued that the accused is involved in a heinous offence and cannot be granted bail as prayed for.

4. It may be mentioned at this juncture that the accused Riaz Ahmed has been admitted to bail as per the submission of the learned counsel for the respondent as the challan could not be produced within the statutory period before the competent court of law. Riaz Ahmed is the one who is alleged to have fudged the revenue entries which led to execution of sale deeds in favour of different persons. The accused Rajesh Kumar has allegedly attested the revenue entries made by the accused Riaz Ahmed in the capacity of Patwari. So far the involvement of the accused Rajesh Kumar beyond this allegation has not surfaced. The said accused has any further involvement in the case cannot be commented upon in the present application. Again the argument of the learned counsel for the applicant that in case mutation has been attested by the applicant the same is subject to judicial review and the applicant cannot be framed in the case. The argument of the learned counsel cannot be entertained at this stage as the investigations are not yet over. The argument is raised by the learned counsel for the non-applicant that as the revenue record is yet to be verified and the financial transactions are not completely unraveled so far the grant of bail to the applicant can hamper the investigation.
5. The court is of the view that as the applicant has already been suspended and cannot have direct approach to the office from where the wrong started and further that the applicant though an official has not been apprehended till date, whatever may be the reason, the court finds in the circumstances of the case that the bail in anticipation of arrest need not be denied to the applicant.
6. Accordingly, it is directed that in case the applicant Rajesh Kumar is arrested in the aforesaid FIR, he shall be released on bail subject to

furnishing of bail bond and surety bond to the tune of Rs. 20,000/- each to the satisfaction of the I/O of the case. The applicant is directed to join the investigation within a period of three days and to attend the same thereafter as and when required and shall also not tamper with the evidence in any manner.

7. The bail order shall remain in operation till next date of hearing.
8. List on 02.07.2020.

(PUNEET GUPTA)
JUDGE

Jammu
03.06.2020
Pawan Chopra

Whether the order is speaking? Yes/No
Whether the order is reportable? Yes/No

