

**Court No. - 16**

**Case :-** BAIL No. - 10547 of 2020

**Applicant :-** Ram Gopal

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

**Counsel for Applicant :-** Smriti,Naved Ali,Pawan Bhaskar

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

**Hon'ble Dinesh Kumar Singh,J.**

Heard learned counsel for applicant as well as learned A.G.A. for the State and perused the record.

This bail application has been moved by the accused-applicant for grant of bail in Case Crime No.64 of 2015, under Sections 419, 420, 467, 468, 471, 120-B I.P.C. & 2/3 of Prevention of Damage to Public Property Act, Police Station Dhaurhara, District Kheri.

In brief, the allegation against the accused applicant and other co-accused, government officials, is that they in connivance with the private persons have mutated a large number of government land in favour of 34 private persons named in the FIR.

As per counter affidavit filed on behalf of State, the applicant was posted as Lekhpal of the village in question for 1400 to 1405 fasli years and he mutated the government land in those fasli years in favour of private persons. Charge sheet has already been filed. The applicant has been retired from service on attaining the age of superannuation in the year 2011 and he is almost 70 years of age.

Learned counsel for the applicant submits that two private persons, in whose names some land was mutated, have been granted bail by this Court vide order dated 13.04.2018 passed in Bail No.1736 of 2018. He further submits that the case is based on documentary evidence and witnesses are government officials. The accused applicant has no chance to tamper with the evidence or influence the witnesses or avoid the trial. He further submits that the accused-applicant may be put to some financial burden without prejudice to his rights and contentions in the trial as a condition precedent for grant of bail.

On the other hand, Sri Anirudha Kumar Singh, learned A.G.A., opposes the bail application and submits that the offence committed by the present accused applicant and other co-accused is very serious in nature. The applicant along with other co-accused had transferred a large number of valuable

government land in favour of the private persons for consideration other than legal and justified one. He further submits that the trial court after taking into consideration the fact and circumstances of the case has rejected the bail application of the applicant for just and valid reasons and, therefore, the accused applicant is not entitled to be enlarged on bail.

I have considered the submissions advanced by learned counsel for the applicant as well as learned A.G.A. The accused applicant has got retired in the year 2011; he is 70 years of age and he has been in jail since 16.10.2020. Charge sheet has already been filed. The case is primarily based on documentary evidence and the witnesses are government officials. The accused applicant has a very little chance to tamper with the evidence or influence the witnesses.

Considering the facts and circumstances of the case and keeping in view the nature of offence, evidence in support of accusation, complicity of accused, I am of the considered view that the applicant has made out a case for bail. The bail application is, thus, **allowed**.

Let the accused-applicant **Ram Gopal** involved in aforesaid case be released on bail on his furnishing a personal bond with two sureties to the satisfaction of the court concerned subject to following conditions:-

(i) The applicant shall deposit a sum of Rs.2,00,000/- with the Chief Minister's Relief Fund, Uttar Pradesh within a period of two weeks from the date of his release from jail on bail and the said amount (Rs.1,00,000 each) shall be disbursed to two martyrs who have been killed by Maoists in border of Bijapur-Sukma district, Chhattisgarh, namely, Head Constable Raj Kumar Yadav of District Ayodhya (U.P.) and Constable Dharmdev Kumar of District Chandauli, U.P., belong to CoBRA (210 battalion) CRPF. In case, the applicant fails to deposit the aforesaid amount, this order shall be treated to be cancelled and the applicant shall be taken into custody.

(ii) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(iii) The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the trial court may

proceed against him under Section 229-A of the Indian Penal Code.

(iv) In case, the applicant misuses the liberty of bail during trial and in order to secure his presence, proclamation under Section 82 Cr.P.C. is issued and the applicant fails to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against him, in accordance with law, under Section 174-A of the Indian Penal Code.

(v) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

Let a copy of this order be sent to the Principal Secretary, Chief Minister, Uttar Pradesh for necessary compliance.

**Order Date :- 5.4.2021**

Anand Sri./-