

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M No.26330 of 2015

Date of decision: 19th October, 2015

Bharto Devi

... Petitioner

Versus

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

1. Whether Reporters of Local Newspapers may be allowed to see the judgment?
2. Whether to be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. D.R. Bansal, Advocate
for the petitioner.

Mr. Munish Sharma, Asstt. Advocate General, Haryana
for respondent No.1.

FATEH DEEP SINGH, J.

Allegations against the petitioner Bharto Devi in this bail application filed under Section 438 Cr.P.C. seeking anticipatory bail in case FIR No.124 dated 26.05.2015 registered at Police Station Israna, District Panipat (Haryana) under Sections 403/406/420/467/468/471 IPC, are that a poultry firm in the name and style of M/s Hi-Tech Poultries was being run at village Israna, District Panipat (Haryana) by one Shish Pal which firm qua this poultry farm had taken a term loan of ₹1,55,00,000 from the complainant Canara Bank, Naultha, District

Panipat along with cash credit limit of ₹40,00,000. After the death of Shish Pal, his wife Manju stepped into his shoes. In this loan agreement, Satish, Balkar Singh and Ram Mehar accused stood as guarantors as security of the Bank. Even the stocks and machinery of this firm was put under hypothecation along with mortgaging of the land of Shish Pal situated in village Ugra Kheri.

During the course of events, M/s Disha Layer Farms run by accused Dilsher Singh son of the present petitioner Bharto Devi offered to take-over the liability of M/s Hi-Tech Poultries. The accused are alleged to have entered into a conspiracy and approached Senior Manager of the complainant Bank whereby accused Shanti Devi showed her inclination to take-over liability of M/s Hi-Tech Poultries and which was duly accorded sanction by the Bank authorities on 25.03.2012. As per this arrangement, the existing term loan liability as on that date amounting to ₹1,09,37,000 was taken over by M/s Disha Layer Farms and in furtherance of this arrangement with the complainant Bank, Dilsher Singh also signed documents and in this fresh arrangement, accused Dilsher Singh and Ajmer Singh, both brothers, and petitioner Bharto Devi, their mother, stood guarantors for repayment of the cash credit loan as well as term loan and which was collaterally secured by EMT of vacant plot measuring 440 square yards and another plot measuring 300 square yards, both detailed in the FIR and situated in village Amarwali Khera, District Jind owned by the present petitioner along with land owned by Dilsher Singh situated

in village Rajana, District Jind as well as land owned by Shanti Devi and Ankit situated in village Israna, District Panipat.

It is pertinent to mention here that an agreement to sell the land measuring 19 Kanals 14 Marlas was earlier executed by the owners Shanti Devi, Manju and Ankit for a total sale consideration of ₹2,74,00,000 and claimed to have received ₹76,00,000 as earnest money and the balance amount was to be paid on or before 30.04.2014 and in pursuance of which sale deed was to be executed by 12.06.2014. It is alleged that on 16.06.2014 all the accused approached the complainant Bank that they are in fact going to execute sale deed in compliance of the sanction of loan favouring M/s Disha Layer Farms as well as lien earlier in the firm of M/s Hi-Tech Poultries and requested the complainant Bank for deleting lien of the complainant Bank to facilitate the sale deed and on this false assurance of registering a sale deed had got the entry made in the records of the Bank deleting the charge on the property and subsequently, it transpired that no such sale deed was got executed and thus, the complainant Bank has been defrauded of this money.

Mr. D.R. Bansal, Advocate representing the petitioner has submitted that the petitioner is a senior citizen, a lady, and has only stood as guarantor and that no role is attributed to her in commission of the offence and that her co-accused namely Ajmer has been allowed regular bail by the Court of Judicial Magistrate 1st Class,

Panipat vide order dated 28.07.2015 further submitting that recovery proceedings may be initiated against the petitioner.

The present bail application is stoutly opposed by learned State counsel Mr. Munish Sharma, Asstt. Advocate General, Haryana, who has argued that the petitioner happens to be mother of principal accused Dilsher Singh and being a family affair has not only acted dishonestly and fraudulently but has also cheated and robbed the complainant Bank of its invaluable money running into crores and that her custodial interrogation is essential, further arguing that the principal accused Dilsher Singh is evading his arrest and prayed for dismissal of the petition.

The prima-facie allegation that has been levelled against the petitioner and the manner in which the accused had duped public money which was in the hands of Bank and the fact that her custodial interrogation is essential to unearth the very gamut of allegations and the fact that provisions of Section 438 Cr.P.C. are to be sparingly used, no ground for grant of bail is made out. Thus, the prayer made is declined and the instant petition stands dismissed.

(FATEH DEEP SINGH)
JUDGE

October 19, 2015
rps