

Sr. No. 236

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

**CRM No. M-11458 of 2016 (O&M)
Date of Decision: 07.04.2016**

Inder Bahadur Pandey

...Petitioner

Versus

The State of Haryana

... Respondent

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. R.S.Rai, Senior Advocate with
Mr. Anurag Arora, Advocate,
for the petitioner.

Mr. Deepak K. Grewal, DAG, Haryana.

Mr. Sandeep Suri, Advocate,
for the complainant.

TEJINDER SINGH DHINDSA. J (ORAL)

Petitioner seeks benefit of regular bail pending trial in case FIR No.51 dated 22.02.2016, under Sections 420/465/467/468/471/120-B of Indian Penal Code, registered at Police Station Udyog Vihar, Gurgaon.

Counsel for the parties have been heard.

FIR in question has been registered on the complaint of Capri Global Capital Limited (Complainant Company). As per complainant, Sunil Aggarwal (accused No.2) and Mrs. Seema Aggarwal (accused No.3) are the Directors of MG Impex Pvt. Ltd. i.e. a Company engaged in the business of manufacturing and exporting

of cotton fabrics, silk fabrics etc.

Reading of the FIR reveals that accused Nos.2 and 3 had approached the Complainant Company in the year 2014 for availing of two separate loans i.e. Rs.2,04,50,000/- (Rs. Two crores, four lac and fifty thousand only) and Rs.10 lac (Rs. Ten lac only) against a property collateral.

Allegations in a nutshell raised by the Complainant Firm/Complainant Company is that accused Nos.2 and 3, namely, Sunil Aggarwal and Mrs. Seema Aggarwal have dishonestly and fraudulently represented to be the absolute owners of a residential flat bearing No.9467 situated at Sector-C, Pocket 9, Vasant Kunj, New Delhi and offered the same as collateral to facilitate sanctioning of the loan.

Insofar as the present petitioner is concerned, he is sought to be implicated on the basis that he was the original owner of such flat that was offered as a collateral to secure the loan sanctioned in favour of the co-accused Sunil Aggarwal, Seema Aggarwal i.e. Directors of MG Impex Pvt. Ltd. Further allegations are that even though a sale deed had been executed by the present petitioner in favour of the co-accused Sunil Aggarwal, but it was a collusive sale with an intent to defraud the Complainant Company so as to secure a loan against a property which could not be construed as unencumbered.

Petitioner was arrested on 10.03.2016.

The matter is still under investigation.

Be that as it may, from the reading of the FIR itself it

would be clear that the Complainant Company had carried out an exercise of due diligence as regards title in favour of accused No.2 i.e. Sunil Aggarwal through their empanelled advocates. In pursuance to such exercise a title certificate as also a search report dated 17.07.2014 had been furnished by the advocates of the Complainant Company and wherein it had been confirmed that title of Sunil Aggarwal over the flat in question was clear, marketable and unencumbered.

There would be no dispute that the sanction of the loan is not to the present petitioner but to co-accused Sunil Aggarwal/Seema Aggarwal in the capacity of being Directors of MG Impex Pvt. Limited as also to accused Nos.2 and 3 in their personal capacity.

The allegations with regard to connivance of the present petitioner and of his having acted in conspiracy with the other co-accused to facilitate the sanction of such loan upon offering the flat in question as a collateral would be a matter of investigation and trial thereafter.

Present petitioner is stated to be a senior citizen, aged 80 years.

It is not the case made out on behalf of the State or by the counsel appearing for the Complainant Company that the petitioner if granted benefit of bail would be in a position to hamper the course of a fair and free investigation.

Without making any observations on merits, petitioner is held entitled to the benefit of bail.

Petition is allowed. Petitioner be enlarged on bail subject

to satisfaction of the Chief Judicial Magistrate/Duty Magistrate,
Gurgaon.

Disposed of.

07.04.2016

vandana

**(TEJINDER SINGH DHINDSA)
JUDGE**