

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

Date of Decision: February 2, 2015

1. CRM M-40965 of 2014

Sandeep

.....Petitioner

Vs.

State of Haryana

.....Respondent

2. CRM M-42510 of 2014

Mohit

.....Petitioner

Vs.

State of Haryana

.....Respondent

3. CRM M-42527 of 2014

Som Dutt and another

.....Petitioners

Vs.

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI.

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Present:- Mr.Sanjiv Gupta, Advocate
for the petitioner in CRM M-40965 of 2014.

Mr. Vikram Singh, Advocate
for the petitioner in CRM M-41510 of 2015.

Mr. R.S. Rai, Sr. Advocate with
Mr. Anurag Arora, Advocate for the petitioners
in CRM M-42527 of 2014.

Mr. M.S. Sidhu, Addl.A.G., Haryana.

Mr. A.P.S. Deol, Sr. Advocate with
Mr. D.B. Singh, Advocate.

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M.M.S. BEDI, J. (ORAL)

This order will dispose of three petitions bearing CRM M-40965, M-42510 and M-42527 of 2014, for grant of regular bail.

Petitioners Sandeep, Mohit, Som Dutt and Deepak have sought concession of regular bail in a case registered at the instance of Jai Bhagwan alleging that his younger brother Neeraj was elected Sarpanch of Village Hathwala. There is party faction with Sachdev Tyagi and his family members. The said persons quarreled with his brother Neeraj and few cases are pending against each other in the Courts. On account of said enmity, the petitioner Som Dutt, Maldev, Deepak, Tinku @ Pardeep, sons of Som Dutt, Lalit and Amit sons of Rampal, Neeraj, Pankaj, Rinku sons of Surender Tyagi, residents of Hathwala had been threatening Neeraj to kill him. On the day of occurrence at about 4.00 o'clock, complainant alongwith his brother Neeraj Sarpanch, Pawan, with Jaswant and Ajit were going in their car. When they reached 1 km. from Gurukul towards Hathwala, then from

front side a Canter No. HR 55 H- 5340, driven by Rahul son of Rajbal whereas Bachhi son of Krishan Tyagi was sitting with him in the cabin, came. Rahul tried to hit the Car of the complainant directly. An attempt was made by complainant to take the car on the side but Canter hit the car head on and dragged it. Petitioner Som Dutt, alongwith petitioner Deepak, Tikku, Maldev, Lalit, Amit, Pankaj, Neeraj, Rinku, Mukesh and 3/4 other persons alighted from the Canter with lathies, iron rods, swords, jelly and bhalle. Maldev and petitioner Som Dutt raised lalkara to teach a lesson to Neeraj for doing Chaudhar in the village. On this, Neeraj and the complainant alongwith others started running after coming out of the car. But at a distance of about half acre, an accused encircled Neeraj and caused injuries to him with their respective weapons. When noise was raised, all accused threatened and escaped from the spot. They had also fired at the complainant party. The complainant was also inflicted lathi blows. Neeraj was taken to Panipat but he died on the way. The complainant's brother had told him that the accused persons had planned to kill him by hatching a conspiracy.

Learned counsel for the petitioners Som Dutt and Deepak submitted that petitioner No.1 is an old man of 70 years of age and has been in judicial custody for the last one year. Petitioner No.2 Deepak is son of petitioner No.1 who has been in custody w.e.f. March 28, 2014 and that the petitioners have been falsely implicated on the ground that petitioner No.2 Deepak had contested Panchayat elections against Neeraj in 2009- 2010. In

the said elections, petitioner No.1 Som Dutt being father of Deepak had helped his son but Deepak lost the said elections. Deepak- petitioner No.2 had earlier been elected as Sarpanch of the village prior to 2009-2010. Petitioner No.1 Som Dutt also remained Sarpanch of the village on 2/3 earlier occasions. It was further contended that another FIR No.3 was registered on January 1, 2014 against Pardeep. On investigation by Special Investigation Team, Pardeep was exonerated. As per the call details obtained by the police, the petitioners were present in their house at the time of the alleged incident. Story of accident has been converted into a case of murder as first information given to the police on telephone is that the brother of the complainant had met with an accident.

It has been argued by learned Senior counsel Mr. R.S. Rai that since petitioner No.2 Deepak had contested election against Neeraj, deceased in the year 2009-2010 and his father petitioner No.1 had helped in panchayat elections and lost election to Neeraj, on account of rivalry, petitioners Som Dutt and Deepak have been involved in the case. It was urged that after submission of challan, the investigating agency had moved an application before the trial Court for seeking permission for further investigation as the police itself was not satisfied with the earlier investigation but the said application was declined by the Court vide order dated August 6, 2014. State has filed a revision petition challenging the order declining permission for further investigation which is pending. He argued that the allegations in the FIR regarding fire arms having been used

were found to be false. As the Special Investigating Team is still in the process of finding the truth, petitioners Som Dutt and Deepak should be granted the concession of bail.

Mr. A.P.S. Deol, learned Senior counsel for the complainant has opposed the petition stating that the petitioners have been specifically named in the FIR and specific role has been attributed to them.

Counsel for petitioner Mohit has stated that he is not named in the FIR but was implicated on the basis of disclosure statement made by co-accused Shashi. Petitioner Mohit is alleged to be not connected with the crime. Petitioner Mohit has been challaned on the basis of supplementary report conducted by Special Investigating Team.

Similarly petitioner Sandeep has been found to be involved in the case on the basis of the report of Special Investigating Team.

Taking into consideration the arguments of learned counsel for the petitioners, counsel for the complainant, State counsel and going through the police file, it is apparent that there is a party faction between Deepak and deceased. It appears that petitioner Som Dutt has also filed an application challenging the order dated August 6, 2014 whereby the application for permission of further investigation of the case has been dismissed.

Without going into the niceties of the trial and expressing any opinion whether the petitioners are prima facie involved in the case on the basis of the investigation conducted and the controversy regarding further

investigation being pending, the petitioners cannot claim, at this stage, that they have got no connection with the homicide of Neeraj.

Petitioner No.1 Som Dutt in CRM M-42527 of 2014 is 70 years old and has been attributed only lalkara. Som Dutt has been in custody w.e.f. January 2, 2014 as such, taking into consideration his age and the circumstances mentioned hereinabove, petitioner Som Dutt can be granted the concession of Bail.

Petition bearing CRM M-42527 of 2014 is **allowed only qua petitioner No.1 Som Dutt**. Petitioner Som Dutt is ordered to be released on bail on his furnishing bail bonds/ surety bonds to the satisfaction of the trial Court. So far as petitioner No.2 **Deepak in CRM M-42527 of 2014**, petitioner **Sandeep in CRM M-40965 of 2014** and petitioner **Mohit in CRM M-42510 of 2014** are concerned, their petitions are **dismissed** at this stage.

Februar 2, 2015
sanjay

(M.M.S.BEDI)
JUDGE