

CRM-M-15383-2023
Date of decision: 11.04.2023

...PETITIONER

...RESPONDENT

Learned counsel for the petitioner contends that as per the allegations, the petitioner along with two co-accused, namely, Ravinder Bahuia and Shambhu Bahuia @ Shambhu Bhahia were apprehended at the spot and 05 kg of opium was recovered from them. One of the co-accused, namely, Nishan Singh allegedly managed to slip away from the spot. It has been further submitted that the petitioner and the two co-accused who were apprehended at the spot are residents of Jharkhand but the entire proceedings i.e. the notice under Section 50 of the NDPS Act, consent memo, non-consent memo etc.were prepared in Punjabi language. Nishan Singh, the co-accused has been granted regular

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bail in terms of order dated 16.08.2021 passed in CRM-M-29627-2021 (Annexure P-6). Ravinder Bahuia was granted regular bail in terms of order dated 30.03.2022 passed in CRM-M-5701-2022 (Annexure P-7). One of the reasons which weighed in the mind of the Co-ordinate Bench while granting bail to Ravinder Bahuia was to the effect that he was a patient of Tuberculosis. Shambhu Bahuia @ Shambhu Bahia has been granted bail by the Co-ordinate Bench in terms of order dated 07.12.2022 passed in CRM-M-50029-2022 (Annexure P-8) after he had undergone custody for a period of about one and a half year and out of 10, only 03 witnesses had been examined. The petitioner has undergone imprisonment for a period of 01 year, 10 months and 23 days, not involved in any other case and even, till date, only 03 witnesses have been examined.

Learned State counsel has opposed the bail application on the score that the petitioner was apprehended at the spot and 05 kg of opium has been recovered which falls in the category of commercial quantity.

Be that as it may, similarly placed co-accused, Shambhu Bahuia @ Shambhu Bahia has been granted regular bail by the Co-ordinate Bench of this Court after he had undergone custody for a period of 01 year, 06 months and 19 days and only 03 witnesses had been examined. Even, till date trial has not progressed and only 03 witnesses have been examined. Furthermore, the petitioner has undergone custody for a period of 01 year, 10 months and 36 days and not involved in any other case. The petitioner becomes entitled to the concession of regular bail on the principle of parity. The conclusion of trial is likely to take sometime. No fruitful purpose will be served by detaining the petitioner in further custody. As such, sufficient mitigating circumstances are

made out to extend the concession of bail to the petitioner.

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Without expressing any opinion on the merits of the case, the instant petition is allowed. The petitioner is ordered to be released on bail on his furnishing requisite bail bonds to the satisfaction of the learned trial Court/Duty Magistrate concerned.

The petition is allowed accordingly.

11.04.2023
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(VIVEK PURI)
JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No