

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL REVISION APPLICATION NO. 50 OF 2016

NELSON UZOWULLU, PRESENTLY LODGED
IN JUDICIAL CUSTODY AT CENTRAL
JAIL, COLVALE.,

... Petitioner

Versus

STATE OF GOA, THR. POLICE
INSPECTOR, PANAJI.,

... Respondent

Mr. Marvin D'Souza, Advocate for the Petitioner.
Mr. P. Faldesai, Addl. Public Prosecutor for the Respondent.

Coram:- C. V. BHADANG, J.

Date:- 6th October, 2016

P.C.:

Heard the learned counsel for the petitioner and the learned Addl.
Public Prosecutor for the respondent/State.

2. The petitioner, who is an accused in Special case no.47/2015 before the learned Special Judge, NDPS Court at Panaji is challenging the order dated 31/5/2016, by which the application Exhibit 7 filed by the petitioner for calling the record/CDR details has been dismissed.

3. Admittedly the said application was filed when the Special Case was at the stage of framing of charge. The learned Special Judge has inter alia held that the petitioner cannot seek calling of the record at the stage of framing of charge. On behalf of the petitioner reliance

was placed on the judgment of the Hon'ble Supreme Court in the case of SURESH KUMAR VS. UNION OF INDIA (2015) 3 RCR (Cri) 340. This judgment was also brought to the notice of the learned Special Judge, who at para 10 has held that the observations in the said case were in different factual scenario wherein a plea was raised before the learned Special Judge that the accused was not arrested from the place, as it was shown in the chargesheet. The learned Special Judge has found that such a case is not made out in the application.

4. Be that as it may, it is now contended on behalf of the petitioner that the petitioner intends to call the CDR details on a similar ground about the location of the officers, who are shown to be the part of the raiding party along with the cell phones attached.

5. It is undisputed that the charge has since been filed. I have carefully considered the circumstances and the submissions made.

6. The Hon'ble Supreme Court in the case of SURESH KUMAR had directed calling of the CDR details on the basis of a contention raised about the accused not being arrested at the place as it was shown in the charge sheet. In the overall circumstances, I find it appropriate to dispose of the revision application with liberty to the petitioner to file a properly constituted application making out grounds seeking the CDR details, before the learned Special Judge. If

such an applciaiton is filed the learned Special Judge shall decide the same on its own merits and in accordance with law. Rival contentions of the parties are left open. The Revision application is disposed of in the aforesaid terms.

C. V. BHADANG, J.

ap/-