

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-43747 of 2016

Date of decision: December 07, 2016

Sandeep @ Sonu

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE A.B. CHAUDHARI**Present:** Mr. Amarjit Singh Virk, Advocate
for the petitioner.**A.B. CHAUDHARI, J (Oral)**

Rule. Heard forthwith.

In the present petition, order dated 03.10.2016 is under challenge in Case No.33-NDPS/16 instituted on 20.08.2016 arising out of FIR No.78 dated 04.02.2016, under Section 21 (C)/61/85/NDPS Act, P.S. City Sirsa by which the application filed by the petitioner for direction to preserve the recording and call details of the mobile numbers mentioned in the application has been rejected by the trial Court.

With assistance of learned counsel for the petitioner, I have gone through the application and in particular Para 2. Mobile phone numbers have been mentioned in Para 2 of the application but there are no supporting details as to why the call details of particular number should be preserved. Learned counsel for the petitioners accepts that the same should have been elaborated in the application itself. It is further submitted that the reason given by the trial Court that the numbers of mobile phones have been mentioned, were not involved during investigation and therefore no direction can be given, is wrong. Prima facie the reason mentioned by the petitioner in the application is that in projecting the defence, after period of one year, the call details would be removed. However, this fact has not been considered by the trial Court and therefore there is a mistake.

At the same time the trial Court could not be expected to accept the application in the absence of proper satisfaction about each mobile phone number and reason as to why the direction was necessitated. No Court can act on a vague application and that too with vague. The application thus did not contain the satisfactory reasons for making the prayer.

However, in my opinion though the petitioner has not mentioned the reasons, in the interest of justice, the petitioner should allowed to file a fresh application by elaborate reasons in the light of the observations made above. Hence, I make the following order:

ORDER

1. Application dated 27.09.2016 in Case No.33-NDPS/16 instituted on 20.08.2016 arising out of FIR No.78 dated 04.02.2016, under Section 21 (C)/61/85/NDPS Act, P.S. City Sirsa is allowed to be withdrawn with liberty reserved in favour of the petitioner to file fresh application for a direction. Consequentially, the impugned order dated 03.10.2016 is also set aside.
2. The petitioner is free to file another application with all details before the trial Court and upon such filing, the trial Court shall decide in the same in accordance with law.

(A.B. CHAUDHARI)
JUDGE

December 07, 2016

Nisha-I

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No