

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

**Criminal Revision No.4093 of 2017 (O&M)  
Date of decision: 25.02.2019**

**Hardev Singh alias Dev**

**..Petitioner**

**Versus**

**State of Punjab**

**..Respondent**

**CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY**

**Present:** Mr. B.S. Bhalla, Advocate  
for the petitioner.

Mr. Amit Mehta, Sr. DAG, Punjab  
for the respondent -State.

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**Daya Chaudhary, J.**

This revision petition has been filed to challenge impugned order dated 27.10.2017 passed by the Special Judge, Moga, whereby, the application moved by the petitioner for getting preserved the call detail records pertaining to mobile phones belonging to the Investigating Officer and other members of police party, has been dismissed.

Briefly, the facts of the case as made out in the present revision petition are that FIR No.96 dated 03.06.2017 was registered under Section 22/25/61/85 of the NDPS Act at Police Station City South Moga. As per case of the petitioner, he was apprehended near the Band Railway Crossing at Moga when he was travelling in his car make Hyundai Verna bearing registration No. PB-10FZ-1316 and DSP City was called at the place of occurrence. The intoxicant powder was alleged to have been recovered from the petitioner. The petitioner was stated to be in Gian Chand Memorial

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Maternity and Nursing Home, near Civil Hospital, Arra Road, Moga on 03.06.2017 from 7:30 am till 5:00 pm as his wife, namely, Ravjeet Kaur was got admitted in said hospital at 7:45 am. She delivered a female baby girl at about 1:45 pm as it was clear from the consent/request form signed by the petitioner at the time of admission of his wife. His wife was discharged from the hospital on 06.06.2017. As per case of the petitioner, he came out from the hospital to take medicines for his wife and was picked up by the Police outside the hospital premises and was falsely implicated in the case. He moved an application to prove his innocence by stating that six Police officials were alleged to be present at the place of occurrence whereas as per their mobile location, they were not present. Said application was dismissed vide impugned order dated 27.10.2017, which is subject matter of challenge in the present revision petition.

Learned counsel for the petitioner submits that the impugned order of dismissal of application is totally non-speaking, which has been passed on the ground that call detail records have been kept preserved and the same would be summoned at the appropriate time. Simultaneously, the Police has moved an application for grant of permission to dispose of the case property and a direction has been issued to dispose of the case property after ensuring that the provisions of Section 52-A of the NDPS Act have been complied with. Learned counsel for the petitioner has also relied upon judgment rendered by Hon'ble the Apex Court in ***Suresh Kumar vs. Union of India, 2015(3) RCR (Criminal) 340*** in support of his arguments.

Learned State counsel has not disputed the facts of the case but submits that the impugned order is well reasoned and no interference is

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required.

Heard arguments of learned counsel for the petitioner as well as learned State counsel and have also perused the impugned order as well as other documents available on the file.

The facts relating to submission of application and keeping the call details preserved are not disputed. It is also not disputed that electronic records are admissible in evidence in criminal trials.

Sections 65A and 65B of the Indian Evidence Act (for short 'the Act') make such records admissible subject to fulfillment of the requirements stipulated therein including certificate in terms of Section 65B (4) of the Act. The accused has every right to summon whatever is relevant and admissible in his defence including electronic records relevant to find out the location of the officials effecting the arrest.

I do not want to express anything on merits at this stage as it may pre-judge the issue. It is required to see at this stage as to whether the call detail records, which the petitioner is demanding can be denied to him. The call detail records have been kept intact under the orders for the purpose of determining the exact location of the official concerned at the time of alleged arrest of accused. The call detail records demanded by the petitioner can be summoned in terms of Section 65B of the Act as the same is relevant only to the extent of determining that the location of the official concerned need not contain other information concerning such calls received or made from the telephone numbers concerned. Meaning thereby, if the mobile/telephone call details of the caller are blacked out of the information summoned from the companies concerned, it will protect the

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petitioner against any possible prejudice in terms of exposure of sources of information available to the Bureau. The purpose of such call records is to show that Police officers/officials were present or not at the time of recovery or they were at some other place.

By considering the provisions of Sections 65A and 65B of the Act, I am of the considered view that all the relevant call records have been preserved to the extent of determining the location of Police officials but not for other information. The mobile/telephone call details of the caller are necessary to be summoned from the concerned company to protect the interest of the petitioner.

Accordingly, the present revision petition is allowed and impugned order dated 27.10.2017 is set-aside with a direction to the trial Court to summon the call detail records relating to the mobile numbers mentioned in the application from the concerned company. It is further directed that calling numbers and the numbers called from the said mobile phones shall be blacked out by the concerned company while furnishing such details.

25.02.2019  
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(DAYA CHAUDHARY)  
JUDGE

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|---------------------------|-----|
| Whether speaking/reasoned | Yes |
| Whether Reportable        | Yes |