

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

CRM-M-22339-2021

Date of decision : 15.06.2021

Jaswinder Singh

.... Petitioner

Versus

State of Punjab

... Respondent

(The case has been taken up through Video Conferencing.)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Bipan Ghai, Sr. Advocate with
Mr. Paras Talwar, Advocate
for the petitioner.

Mr. Sandeep Singh Deol, DAG, Punjab.

HARSIMRAN SINGH SETHI, J (ORAL)

In the present petition, the challenge is to the order dated 28.05.2021 (Annexure P-1) passed by the learned Special Judge, Moga wherein, the request of the petitioner for preserving the call details and the tower locations of certain officials of the police has been declined.

The petitioner had filed an application before the trial Court with a prayer that the call record and tower locations of mobile No.83601-81862 being used by ASI Tarsem Singh, mobile No.97800-07283 being used by Constable Gurjit Singh, mobile details of mobile No.97800-07127 used by ASI Varinder Kumar and the details of mobile No.97800-01721 being used by Inspector Kikkar Singh, may kindly be directed to be preserved during the trial.

Learned senior counsel appearing on behalf of the petitioner submits that the prayer of the petitioner has been declined on the ground that the above said police officials are not the part of the investigating team and are also not witnesses to be examined during the trial, hence, their call details need not to be preserved.

Learned senior counsel further submits that in case, the call details are not preserved and during the trial, trial Court is of the view that those are needed, non preservation of the record will hamper the trial and will also cause prejudice to the petitioner.

The learned State counsel supports the order and submits that the order which has been impugned in the petition, passed by the Special Judge, Moga dated 28.05.2021 (Annexure P-1), is perfectly valid and legal as the call details of the investigating team or the witnesses who have appeared, could have been preserved, which is not the situation in the present case as the call details being sought to be preserved by the petitioner are of the personnel who are not connected with the trial in any manner, either during the investigation or as witnesses in the trial.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

This Court is not going into the aspect whether, the call details are required for the trial or not, at this stage. The said aspect is to be seen by the trial Court during the trial only. No prejudice will be caused to anyone in case, the call details of the police officials, the details of whom have been mentioned in the preceding paragraphs of this order, are preserved during the trial especially when the petitioner is making allegation against these officials. In case, the call details of these officials are not preserved and the trial Court finds that the call details of these officials are needed during the trial, the same will hamper the trial and will cause prejudice to the accused whereas, in case the call details are not needed during the trial, after the conclusion of the trial, the said data can be disposed of and no prejudice will be caused to anyone.

Under these circumstances, it is directed that the call details of the officials, the details of whom have been given in the preceding paragraph and the tower locations, be preserved by the companies concerned with themselves, not to be shown to anyone, except under the orders to be passed by the Competent Court of Law.

It is made clear at the cost of repetition, that this Court is not expressing any opinion upon the requirement of the call details during the trial of the officials, the details of whom have been given in the preceding paragraphs. The trial Court will assess the said aspect and has full authority to pass appropriate order whether to summon the said call details or not in case, any application is made to the said Court.

The petition is disposed in the above terms.

(HARSIMRAN SINGH SETHI)
JUDGE

15.06.2021
Dinesh

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No