

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

CRR No.633 of 2021

Date of Decision:17.12.2021

Kehar Singh

.....Petitioner.

Versus

State of Haryana

.....Respondent.

(Heard through Video-Conferencing)

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present:- Mr. Satnam Singh Gill, Advocate
for the revisionist-petitioner.

Ms. Ambika Sood, Additional Advocate
General, Haryana.

MEENAKSHI I. MEHTA, J.

Feeling aggrieved by the order dated 09.06.2021 passed by learned Additional Sessions Judge, Karnal, dismissing the application (Annexure P-5) moved by the revisionist-petitioner (here-in-after referred to as "the petitioner") for seeking the issuance of direction to the concerned Companies to preserve the tower location of the mobile phone numbers belonging to ASI Shamsher Singh, ASI Raj Kumar, Constables Sumit and Shiva, for the period from 22.12.2020 to 23.12.2020, he (petitioner) has preferred the instant revision petition with a prayer to set aside the said order and to allow his afore-mentioned application.

2. Bereft of unnecessary details, the facts, culminating in the filing of the present revision petition, are that vide the FIR bearing No.565 dated 23.12.2020, a criminal case was registered against the petitioner and his co-accused Suresh Prashad at Police Station Indri, under Sections 15 & 25 of the NDPS Act, with the allegations of their having been found in possession of 95 kgs '*doda post*' (poppy pods) packed in five plastic bags, each weighing 19 kgs.

3. The petitioner preferred the application, Annexure P-5, before the Court below with the prayer as mentioned in the opening para of this judgment, while averring that in fact, he had been picked up by the police from a place near 'Punjabi Dhaba' in Village Dhantori on 22.12.2020 around 4:53 PM and had been falsely implicated in the criminal case vide the said FIR registered on the next day, i.e 23.12.2020 and to substantiate this fact, the location of the mobile phones of the afore-named police officials on both the said dates, would be required.

4. Reply filed on behalf of the respondent-State, by way of the affidavit of the Assistant Superintendent of Police, Indri, is already available on the file and the same is taken on the record.

5. I have heard learned counsel for the petitioner as well as learned State counsel in the present petition and have also perused the file thoroughly.

6. Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the above-said criminal case as he had been arrested by the police on 22.12.2020 from a place located near the above-

said 'Dhaba', i.e prior to the registration of the said FIR on 23.12.2020 and to prove this fact, the location of the police officials at the relevant time would be required and the same can be ascertained from the location of their mobile phones and therefore, the concerned service providers need to be directed to preserve their record in respect thereof. To buttress his contentions, he has placed reliance upon the observations made by the Apex Court in **Suresh Kumar vs Union of India Criminal Appeal No.1234 of 2014 (Arising out of SLP (Crl.)No.1477 of 2014) Decided on 06.05.2014.**

7. However, learned State counsel argues that the petitioner is a habitual offender and he has already been convicted in three cases under the NDPS Act and some of his family members are also involved in and even stand convicted for the similar offences and all of them are in the habit of moving false complaints and such like applications and it being so, the present petition be dismissed.

8. As is revealed from the perusal of the file, ASI Raj Kumar had received a secret information qua the petitioner and his above-named co-accused and he, along-with certain other police officials, had arrested both of them and 'doda post', weighing 95Kgs, had allegedly been recovered from their possession. Hon'ble the Supreme Court has observed in **Suresh Kumar (supra)** that the accused can be allowed to summon the call record of the mobile telephones of the concerned Police Officers to show that they were not near the location of recovery but were at some other location. In the light of these observations, it is held that the

preservation of the call record of the mobile phone with SIM No.98131-25572, as stated to be belonging to ASI Raj Kumar, would suffice to serve the purpose of the petitioner to determine his (ASI's) location only.

09. Resultantly, the impugned order dated 09.06.2021 as passed by the Court below is set aside and the revision petition in hand is hereby allowed to the effect that the service provider Company of the said mobile phone Number, i.e. Vodafone, is directed, through learned State counsel, to preserve the call details of the said mobile phone of ASI Raj Kumar with SIM No.98131-25572, for the period between 4:00 P.M. to 6:00 P.M. on 22.12.2020 for the purpose of ascertaining his location only and in case, the petitioner summons the said record at the appropriate stage during the course of the trial, then the calling numbers and the numbers called from the said mobile phone shall be blacked out by the said Company while furnishing such details.

17th December, 2021

**(MEENAKSHI I. MEHTA)
JUDGE**

seema

Whether speaking/reasoned: *Yes*

Whether Reportable: *No*