

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

CRIMINAL WRIT PETITION NO.3301 OF 2021

Vikrant Jayantilal Jain @ Vicky Jain	...Petitioner
Versus	
Union of India & Anr.	...Respondents

Mr. Manish Mazgaonkar for the Petitioner

Mr. Shreeram Shirsat for the Respondent No.1/UOI

Ms. Veera Shinde, A.P.P for the Respondent No.2–State

CORAM : REVATI MOHITE DERE, J.
MONDAY, 3rd JANUARY 2022

P.C. :

1 Heard learned counsel for the parties.

2 By this petition, the petitioner seeks a direction to the service providers (Telecom Providers) to preserve and produce the CDR records of two panchas to the seizure panchanama in a case registered with the NCB, Mumbai, being NCB/MZU/CR-07/2021.

3 According to the learned counsel, the CDR records of the said two panchas i.e. Rajesh Jain and Rajesh Shah who were members of the raiding team, is necessary to verify their presence at the spot at the time when the panchanama was prepared.

4 Learned counsel for the respondent No.1 opposes the petition. He submits that no interference is warranted in the impugned order passed by the learned Special Judge (NDPS) Thane, rejecting the petitioner's application seeking the aforesaid direction.

5 Perused the papers, in particular, the impugned order. The petitioner is arraigned as original accused No. 2 in NCB/MZU/CR-07/2021. After completion of investigation, charge-sheet has been filed in the said case. According to the prosecution, in the house search of the petitioner, 52.8 gms of Mephedrone (MD) was recovered. It is the prosecution case that the said recovery was done in the presence of two panchas i.e. Rajesh Jain and Rajesh Shah. It is the petitioner's case that the said panchas were not present during the seizure of the alleged MD and that infact, nothing was recovered in the house search as alleged by the prosecution and hence, it is necessary to direct the service providers to preserve the CDR records of the said panchas. The petitioner, in clause (viii) of the grounds taken in the

aforesaid petition, has stated that the CDR, if not preserved, would get deleted from the system after a lapse of 6 months. Admittedly, the panchanama of the house search of the petitioner was prepared on 23rd January 2021. Almost more than 11 months have passed.

6 The learned Special Judge has, after observing that there is nothing to show that the mobile phones were in the possession of the panchas at the relevant time, rejected the said application filed by the petitioner, seeking a direction to the service providers to preserve the CDR records of the said panchas.

7 Considering what is stated in the impugned order, no infirmity can be found in the said order. Accordingly, the petition stands dismissed.

8 It is made clear that the observations are *prima facie* for considering the petition and as such all contentions of the petitioner are kept open during trial.

REVATI MOHITE DERE, J.