

In the High Court of Punjab and Haryana at Chandigarh

CRR No. 758 of 2022
Date of Decision: 11.5.2022

Hardev Singh @ Dev

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. Arshdeep Singh Brar, Advocate for the petitioner.

Mr. Sandeep Singh Deol, DAG, Punjab.

SURESHWAR THAKUR, J. (ORAL)

1. The present petitioner is an accused in FIR No. 212 of 29.8.2021, registered at Police Station City South, Moga, wherein an offence constituted under Section 21/61/85 of the NDPS Act, is embodied.

2. The petitioner is facing trial before the learned trial Judge concerned, as arises from the FIR (supra), and, during the course of the trial, he moved an application, wherein, he asked for preservation of the call details of the police officials concerned. Along with the above, the present petitioner also made a prayer, that the call details, as emanated from cell phone of his wife, bearing No. 76965-15996, be also ordered to be preserved.

3. Though, the learned trial Judge concerned, ordered for preservation of the call detail numbers along with their apposite tower location, but the above preservation was made only with respect to the call detail numbers along with the apposite tower locations, and, qua only the police officials concerned. However, the learned trial Judge concerned,

declined relief to the present petitioner insofar as it appertains to the preservation of the call detail numbers of his wife, as emanating from the cell bearing No. 76965-15996, along with its tower location.

4. The present petitioner is aggrieved from the afore made declining, and, is led to institute thereagainst the instant petition, before this Court. Though, this Court was of the view, that the preservation of the call details of the police officials concerned, as carried in their respective cell phone numbers, and, also the preservation of the apposite tower location(s) thereof, was sufficient for enabling him to, may be canvass a defence, that the entire recovery, as became drawn at the crime site, was completely fictitious, inasmuch as the alleged recovery was made, when on the relevant date, the present petitioner was already in the illegal detention of the police officials concerned, inasmuch as on 20.8.2021 at about 1.30 P.M., his becoming removed from his abode by the police officials concerned. Since, in respect of the afore averments, Annexure P-3 is appended to the petition. Therefore, prima facie, it appears in the light of the above echoings, as carried in Annexure P-3, that may be hence, the present petitioner was not available at the crime site, in the manner alleged in the FIR, but may be he was, prior to the relevant occurrence taking place, at the crime site, already in the purported illegal detention of the police officials concerned. Therefore, in the larger interest of justice, and, to dispel the above stain, as is allegedly affecting the prosecution case, moreso when it may be available as a valid defence to the present petitioner, during the course of his being tried for the offences (supra), by the learned trial Judge concerned, thereupon, the afore defence is required to be facilitated rather to become benumbed.

5. In sequel, the impugned order is interfered with only to the above extent, and, is accordingly modified. The investigating officer concerned, is directed to collect, and, preserve the call details, appertaining to cell No. 76965-15996, and, also directed to preserve the apposite therewith tower location(s), and, to thereafter adduce them in accordance with law, before the learned trial Court concerned.

6. The petition is disposed of.

(SURESHWAR THAKUR)
JUDGE

May 11, 2022
Gurpreet

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No