

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

242

CRR-717-2022
Date of Decision: 04.07.2022

IMRAN KHAN

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: Mr. Vibhor Bansal, Advocate
for the petitioner.

Mr. Gaurv Garg Dhuriwala, Sr. DAG, Punjab.

VINOD S. BHARDWAJ, J. (ORAL)

The instant petition has been filed by the petitioner against the order dated 14.03.2022 passed by the Judge, Special Court in case FIR No. 95 dated 25.02.2020 under Section 22 (c), 25 and 29 of the NDPS Act, 1985 and Section 467, 468, 471 and 120-B of the IPC (added later on) registered at Police Station City Barnala.

Learned counsel for the petitioner *inter alia* submits that he had submitted an application for preservation of the tower location and call detail record pertaining to telephone nos. detailed out as under:

Sr. No.	Mobile No.	Service Provider	Address of Service Provider
1.	84475-30992	Vodafone	Vodafone, C-131, Industrial Area, Phase-VIII, Sahibzada Ajit Singh Nagar,Punjab.
2.	81267-21871	Airtel	Bharti Airtel Limited Nodal Officer, C-25, Phase-2, Industrial Area, Mohali, Sector 58, Sahibzada Ajit Singh Nagar, Punjab.
3.	97793-30786	Airtel	
4.	98970-34373	Airtel	
5.	80597-37520	Airtel	

Sr. No.	Mobile No.	Service Provider	Address of Service Provider
6.	90584-35883	Idea	Idea Store, C-105, Phase 7, Industrial Area, Sahibzada Ajit Singh Nagar, Punjab.
7.	82797-21031	JIO	Jio Infocomm Limited, C-135, Industrial Area, Phase-VIII, Mohali.

Notice of the instant petition had been issued on 20.04.2022, pursuant whereto Mr. Gaurav Garg Dhuriwala, Sr. DAG, Punjab has appeared today on behalf of the State of Punjab.

It has been fairly submitted by the learned State Counsel that the Judge, Special Court, Barnala had dismissed the application moved by the petitioner on the ground that the details of the numbers for the persons alleged by the applicant had not been furnished and that it had not been established that the said persons used to carry the said mobile number and that in the absence of such information, no direction could be issued to preserve the tower location and call details record.

It has been contended by the learned counsel for the petitioner that in paragraphs no.07 and 08 of the application moved before the Judge, Special Judge, Barnala, the relevant details have infact been mentioned and that the impugned order suffers from non-appreciation of the said relevant aspect. The extract of the averments of the alleged application is reproduced herein below:

“7. That one of the member of the police party namely ASI Sharif Khan approached the Panchayat member of the village of the applicant and asked him to bring applicant to him to get his statement recorded and thus the applicant-alongwith the Panchayat member Naim Quereshi, Uncle Raheesh, Brother-

in-law Aas Mohammad and one friend Dev Chaudhary came to Barnala and the Panchayat Member namely Naim Quereshi through his mobile number of JIO Company (82797-21031) regularly contacted the ASI Sharif Khan on his mobile number (97793-30786) giving him information about their departure and arrival to Barnala and the same can be proved through the call records of the above said two numbers.

8. *That it is shown by the prosecution that the applicant was arrested alone on the basis of secret information, but it is pertinent to mention here that the applicant was coming along with his relatives and Panchayat Member and thus the said story of prosecution saying that applicant was arrested alone is totally false and can be proved through the call records and tower locations of the following numbers of the relatives of the applicant:*

Raheesh Uncle: 84475-30992 (Vodafone), 81267-21871 (Airtel)

Aas Mohammad-Brother-in-law: 90584-35883 (Idea)

Naim Quereshi Panchayat Member: 82797-21031 (Jio), 98970—34373 (Airtel).

Dev Chaudhary Friend: 80597-37520 (Airtel).”

It is fairly submitted by the learned State counsel, on instructions from HC Jagdeep Singh, that the investigating agency has no objection to instant petition being allowed and the direction being issued to it to secure and preserve the call details record and tower locations of the above mentioned mobile numbers.

In view of the fair stand adopted by the learned State counsel, the present petition stands allowed and the impugned order dated 14.03.2022 passed by the Judge, Special Court, Barnala is hereby set aside and the investigating agency is directed to secure and preserve the record of

call details as well as tower locations of the aforementioned mobile numbers in order to ensure fair and proper opportunity to the respective parties to prove their defence.

(VINOD S. BHARDWAJ)
JUDGE

04.07.2022

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