

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

**CRR-1661-2021
DECIDED ON: 20.02.2024**

DILDAR SINGH @ DARA SINGH

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

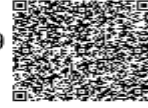
Present: Mr. Abhinav Singla, Advocate for
 Mr. Amit Goyal, Advocate
 for the petitioner.

Mr. G.S. Chhina, AAG, Haryana.

SANDEEP MOUDGIL, J

1. The present revision petition has been preferred against the impugned order dated 30.11.2021 passed by Judicial Magistrate 1st class, Sirsa whereby, an application filed by the petitioner under Section 91 of the Code of Criminal Procedure, 1973, to preserve the call details as well as location chart of mobile numbers mentioned in the application from 17.12.2020 to 19.12.2020, has been dismissed.

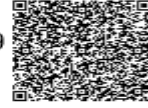
2. The brief facts of the case are that Dildar Singh was taken away by police on 17.12.2020. His mother and others went to the police station to ask about him, but they were not allowed to see him. On the next day i.e. 18.12.2020, the police filed a false case against him and two days, later, he was brought to the Court.



3. Learned counsel for the petitioner has argued that the petitioner only wants to preserve the phone call records of certain individuals mentioned in para Nos. 5 and 6 of the application dated 29.09.2021 (Annexure P-2) to support their defense and also to show that the petitioner's arrest was not as described in the FIR. It is submitted on behalf of the petitioner that the petitioner does not want to infringe the right of privacy of the said officers, as other information concerning the said calls received or made from the said telephone number is not required and the same can be blacked out. He further argues that the observation of the trial Court that the said officials are not the witnesses is incorrect, inasmuch as all the four police officials who have been mentioned in para 5 of the application are in the list of witnesses.

4. Inasmuch as the trial court declined to preserve the call details and location chart and the order passed by the trial Court have the effect of denying to the petitioner the opportunity to prove his innocence, thereby causing prejudice to him in his defence.

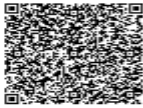
5. On behalf of the respondent-State it was argued by Mr. Chhina that while call details were admissible in terms of Sections 65-A & 65-B the Indian Evidence Act subject to fulfilment of the requirements stipulated in the said provision such details are likely to prejudice the prosecution inasmuch as the details being summoned would not only indicate the location of the officers concerned but also bring other information into public domain, which would also hamper investigation and may result in exposing source of information. Once exposed the source may according to the learned counsel completely dry up to the prejudice of the prosecution. It was submitted that the likely prejudice which the respondent-State apprehend is a good reason enough for this Court to decline the prayer made



by the petitioner. Insofar as false implication of the petitioner is concerned, respondent-State has already been produced the record of the cases pending against the petitioner, which clearly shows that he is a habitual offender.

6. Heard learned counsel for the respective parties.

7. The electronic records are admissible evidence in criminal trials is not in dispute. Sections 65-A and 65-B of the Indian Evidence Act make such records admissible subject to the fulfilment of the requirements stipulated therein which includes a certificate in terms of Section 65-B(4) of the said Act. To that extent the petitioner has every right to summon whatever is relevant and admissible in his defence including electronic record relevant to finding out the location of the officers effecting the arrest of the petitioner on 18.12.2020 at about 5.30 PM. The question is whether the call details as well as location chart which the petitioner is demanding can be denied to him on the ground that such details are likely to prejudice the case of the prosecution by exposing their activities in relation to similar other cases and individuals. It is not however in dispute that the call details are being summoned only for purposes of determining the exact location of the officers concerned at the time of the alleged arrest of the petitioner. Counsel for the petitioner made a candid concession that any other information contained in the call details will be of no use to the petitioner and that the petitioner would not insist upon disclosure of such information. To simplify the matter inasmuch as while the call details along-with location chart demanded by the petitioner can be summoned in terms of Section 65-B of the Indian Evidence Act such details being relevant only to the extent of determining the location of officers concerned need not contain other information concerning such calls received or made from the telephone



numbers concerned. In other words if the mobile telephone numbers called or details of the callers are blacked out of the information summoned from the companies concerned it will protect the respondent against any possible prejudice in terms of exposure of sources of information available to the agency. Interest of justice would be sufficiently served if a direction is given to the Trial Court to summon from the Companies concerned call details along-with location chart of the persons mentioned in para Nos. 5 and 6 of the application dated 29.09.2021 (Annexure P-2). It is further directed that calling numbers and the numbers called from the said mobile phone shall be blacked out by the companies while furnishing such details.

8. Accordingly the order impugned is set aside and the present petition is allowed to the extent indicated above.

(SANDEEP MOUDGIL)
JUDGE

20.02.2024

Sham

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