

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

2025:PHHC:079079



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CRM-M-31093-2025 (O&M)
Date of Decision: 03.07.2025.

Surinder Singh

...Petitioner.

Versus

State of Punjab and others

...Respondents.

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR

.....

Present: Mr. Kanishk Swaroop, Advocate for the petitioner.

Ms. Gagandeep Kaur, DAG, Punjab.

SUKHVINDER KAUR, J.

Present petition has been filed under Section 528 of BNSS for quashing of orders dated 17.04.2025 and 21.05.2025 (Annexures P4 and P5) passed by learned Additional Sessions Judge, Patiala in FIR No.136 dated 02.07.2023, under Section 18/61/85 of NDPS Act, registered at Police Station Sadar Nabha, District Patiala, vide which the applications for preserving the call detail records and tower locations from the period of 01.06.2023 to 01.08.2023, have been dismissed.

Learned counsel for the petitioner has submitted that his prayer in the present petition be confined to preserving the call detail record and tower location, only regarding Inspector Gurpreet Singh Bhinder/ SHO

Police Station Nabha and he does not press for preserving the call detail records and tower locations of others i.e. Amritpal Singh, Jai Parkash @ Kishore and Vinod. He inter-alia contended that on 02.07.25024, the petitioner and his friends Jai Parkash @ Kishore, Vinod and Amritpal visited the Dhani (residence) of aforesaid Amritpal, where Gurpreet Singh Bhinder/ SHO, Police Station Nabha came at the spot and apprehended the petitioner in an unlawful manner after twisting the facts and concocting a false version. The petitioner was falsely implicated in the present case and recovery of 10 Kg opium was implanted upon him. After two months of the said occurrence, above said Jai Parkash @ Kishore was arrested in the present case under Section 29 of NDPS Act. He further contended that the petitioner preferred two applications dated 06.11.2024 and 04.03.2025 for the preservation of the call detail records and tower locations of the petitioner himself as well as the concerned SHO namely, Gurpreet Singh Bhinder and all the above said persons, who were accompanying him at the time of his unlawful arrest. While adjudicating the application filed by the petitioner dated 06.11.2024, the same was allowed only qua the petitioner and qua rest of the persons, it was dismissed vide impugned order dated 17.04.2025. Subsequently, the petitioner again preferred the application for preservation for call detail records and tower location and same was dismissed on the ground of maintainability vide order dated 21.05.2025. He urged that the learned Additional Sessions Judge, Patiala overlooked the fact that in case the call detail records and tower location was not preserved, same would be destroyed by the service providers and grave prejudice would be caused to the petitioner in view of the fundamental right under Article 21 of the Constitution of India and in this context, he has relied upon

the judgments in **Tarun Sharma @ Vipul and another Vs. The State of Uttar Pradesh and others, SLP (Crl.) No.17319 of 2024, Prince Vs. State of Punjab in CRM-M-49365-2022** and **CBI Vs. Neeraj Kumar, 2023 SCC Online Del 1351, decided on 04.03.2025.**

He has submitted that right to free and fair trial is a fundamental right guaranteed as per mandate of Constitution of India and preservation of the call detail records and tower location of Gurpreet Singh Bhinder/ SHO Police Station Nabha is necessary to unravel the truth as well as for the proper and just decision of the case and has prayed that the orders dated 17.04.2025 and 21.05.2025 (Annexures P4 and P5) be set aside and call detail records and tower location of Gurpreet Singh Bhinder/ SHO Police Station Nabha be preserved.

Submissions made by learned counsel for the petitioner were opposed by learned State counsel, who submitted that the impugned orders do not suffer from any infirmity and providing call detail records of Inspector Gurpreet Singh Bhinder/ SHO Police Station Nabha would prejudice the security and privacy and would adversely affect the case of the prosecution. In this context, he has relied upon the judgment of this Court in **Amit Nain Vs. Central Bureau of Investigation, ACB Chandigarh,** in CRR-425-2024, decided on 04.04.2024.

I have heard learned counsel for the petitioner at considerable length and have gone through the material placed on record.

The precise submission of learned counsel for the petitioner is for preserving the call detail records and tower location of Inspector Gurpreet Singh Bhinder/ SHO Police Station Nabha from the period from 01.06.2023 to 01.08.2023. This is the specific submission of learned

counsel for the petitioner that the petitioner was illegally apprehended by Gurpreet Singh Bhinder/ SHO Police Station Nabha from residence (Dhani) of Amritpal and later on, by twisting the facts and concocting a false story, the petitioner was falsely involved in the present case and recovery of 10kg opium was implanted upon him.

It has been observed in the impugned order dated 17.04.2025 passed by learned Additional Sessions Judge, Patiala that the preserving of said details of Inspector Gurpreet Singh Bhinder/ SHO Police Station Nabha would lead to many complications in the investigation of the present case and other pending cases if the said details would come out in public.

This issue has already been dealt with by the Hon'ble Supreme Court in case **Suresh Kumar Vs. Union of India, 2015(3), R.C.R. (Criminal) 340**, wherein it has been held in para Nos.7 and 8 as under:-

“7. That electronic records are admissible evidence in criminal trials is not in dispute. Sections 65A and 65B 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 65B(4) of the said Act. To that extent the appellant 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. Be that as it may we do not at this stage wish to pre-judge the issue which would eventually fall for the consideration of the Trial Court.

8. All that we are concerned with is whether call details which the appellant 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 appellant from Yashica Palace hotel near the bus stand. Ms. Makhija made a candid concession that any other information contained in the call details will be of no use to the appellant and that the appellant would not insist upon disclosure of such information. That in our opinion simplifies the matter inasmuch as while the call details demanded by the appellant can be summoned in terms of Section 65B 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 Bureau. Interest of justice would in our opinion be sufficiently served if we direct the Trial Court to summon from the Companies concerned call details of Sim telephone No. 9039520407 and 7415593902 of Tata Docomo company and in regard to Sim No. 9165077714 of Airtel company for the period 24.02.2013 between 4.30 to 8.30 p.m.. We further direct that calling numbers and the numbers called from the said mobile phone shall be blacked out by the companies while furnishing such details.”

Thus, in the case (supra), the security and privacy of the police officials has been taken into consideration. The call detail record of Inspector Gurpreet Singh Bhinder/ SHO Police Station Nabha is relevant to prove the plea taken by the petitioner. Keeping it in view and the ratio of law laid down by Hon'ble Supreme Court in the case (supra), the present petition is allowed and the orders dated 17.04.2025 and 21.05.2025

(Annexures P4 and P5) are hereby set aside.

However, the other record of call details pertaining to Inspector Gurpreet Singh Bhinder/ SHO Police Station Nabha, which is not relevant for determining the location of the concerned police official is not to be provided to the petitioner. Only that record of the calls, which is relevant for the just decision of the case, would be brought on record during the trial and the record which has no relevancy in the present case or put the privacy of the police official at risk, would not be provided.

The necessary directions be issued by the trial Court for preserving the call detail records and tower location of Inspector Gurpreet Singh Bhinder/ SHO Police Station Nabha for the period from 01.06.2023 to 01.08.2023.

Present petition stands allowed in the above said terms.

(SUKHVINDER KAUR)
JUDGE

03.07.2025.

Komal

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