



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

**CWP-21376-2022 (O&M)
Date of Decision:-26.05.2025**

Yogesh Kumar

...Petitioner

Vs.

State of Haryana and Others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Aditya Yadav, Advocate
for the petitioner.

Ms. Palika Monga, DAG, Haryana.

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 25.02.2022 whereby respondent has substituted punishment of stoppage of 10 future annual increments with permanent effect by stoppage of 5 annual increments with permanent effect.

2. The petitioner pursuant to summons appeared before the trial Court with respect to FIR No.335 dated 06.08.2015 under Sections 42 A of Prisons Act, 1894. He was part of Cyber Cell and was supposed to clarify use of mobile by a prisoner. He intentionally or otherwise produced and deposed regarding use of Mobile No.97291-41395 during 25.07.2015 to 05.08.2015. It is apt to notice here that during jail inspection, authorities recovered sim bearing No.97291-41395 as well as mobile handset having IMEI Nos.357284055563552 and

357284055563570. At the time of seizure, the sim was not in the handset, however, there was record disclosing that sim was used *qua* aforesaid mobile set. The petitioner before the trial Court made a statement that during 25.07.2015 to 05.08.2015, aforesaid sim was used in mobile set bearing IMEI No.911425204004680. He further submitted that during aforesaid period, the sim was not used with IMEI Nos.357284055563552 and 357284055563570. The statement of petitioner culminated in acquittal of accused in aforesaid FIR.

3. The respondent initiated an inquiry against the petitioner alleging that recovered sim bearing No.97291-41395 was actually used on 13.06.2015 in handset having IMEI 357284055563552 and 357284055563570. The petitioner falsely deposed before the trial Court which entailed acquittal of the accused namely Pawan Kumar from whom mobile set was recovered. The petitioner was subjected to punishment of forfeiture of 10 increments with permanent effect. He unsuccessfully preferred appeals before higher authorities. He filed mercy petition before Government which came up for consideration before the Additional Chief Secretary who vide impugned order dated 25.02.2022 substituted aforesaid punishment for stoppage of 5 future annual increments with permanent effect.

4. Mr. Aditya Yadav, Advocate submits that petitioner was asked to submit record of aforesaid sim for the period from 25.07.2015 to 05.08.2015. As per summons of Ld. Chief Judicial Magistrate, Narnaul, he was supposed to bring record of aforesaid sim number and IMEI Nos.357284055563552 and 357284055563570. In the summons, it was

also mentioned that record should be relating to 05.08.2015. The petitioner made statement with respect to use of aforesaid sim during 25.07.2015 to 05.08.2015. During said period, aforesaid sim was used in mobile set having IMEI No.911425204004680. During said period, IMEI Nos.357284055563552 and 357284055563570 were not used. The said statement was factually correct.

5. Ms. Palika Monga, DAG, Haryana submits that respondent made a false statement before the trial Court which resulted in acquittal of accused Pawan Kumar. During inspection, aforesaid sim and mobile set having aforesaid IMEI was recovered from the possession of Pawan Kumar. The sim was used with mobile set having IMEI 357284055563552 and 357284055563570. The aforesaid IMEI and sim number were used together on 13.06.2015 which indicated that recovered sim number was used with recovered handset.

6. I have heard learned counsel for the parties and perused the record.

7. From the perusal of the record, it is evident that stand of respondent since beginning is that during jail inspection one sim and one handset with two IMEI numbers were recovered. It was not proved that sim number was actually used with recovered mobile set. In the investigation, it was found that recovered sim was used with recovered handset on 13.06.2015. The petitioner was called upon by trial Court to clarify position of sim number and IMEI numbers on 05.08.2015. He was asked by Investigating Officer to submit record for the period from 25.07.2015 to 05.08.2015. He made statement before trial Court for the

period from 25.07.2015 to 05.08.2015. The recovered sim was actually used as per inquiry report of respondent alongwith recovered IMEI on 13.06.2015. The petitioner made statement for the period from 25.07.2015 to 05.08.2015, thus, *prima facie* there was no occasion for him to make statement with respect to 13.06.2015. This aspect has not been considered by authorities while awarding punishment. The findings of authorities are contrary to evidence on record, thus, matter needs to be re-examined by authorities.

8. Accordingly, the present petition is allowed and the impugned order is hereby set aside with a direction to jurisdictional Superintendent of Police to pass a fresh order considering aforesaid findings. Needful be done within a period of three months from today.

9. Pending miscellaneous application(s), if any, shall also stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

26.05.2025
Prince Chawla

Whether Speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No