



CRR-2637-2024

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

CRR-2637-2024**Reserved on : 28.03.2025****Pronounced on : 07.04.2025**

Sanjiv Kumar

..... Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Sandeep Saini, Advocate, for the petitioner.

Mr. Kirpal Singh Thakur, AAG, Haryana.

Rajesh Bhardwaj, J.

1. Present revision petition has been filed by the petitioner impugning the order dated 08.05.2024 passed by learned Additional Sessions Judge, Ambala, vide which application filed by the petitioner under Section 91 Cr.P.C. was dismissed.

2. Precise submission made by learned counsel for the petitioner is that the petitioner has been falsely implicated in FIR No.155 dated 04.04.2023, under Sections 20 and 29 of the NDPS Act, 1985. He submits that the petitioner filed an application under Section 91 Cr.P.C. for directing the Telecom Agencies through Investigating Officer to preserve the CDRs and tower locations of mobile numbers of raiding team, special officer in whose presence the alleged contraband was recovered and of the petitioner himself. He submits that the record pertaining to the HDFC Bank and NHAI CCTV footage were given up during the pendency of the said application. He submits that the petitioner is a taxi driver, who runs his own car in taxi to earn his livelihood, however, he has been falsely implicated by the



Investigating Agency in collusion with the NCB Ambala. He submits that vehicle bearing registration No.HR-05-AK-2409 of the petitioner crossed the Sanwara toll plaza on 04.04.2023 at 4:30 a.m. to 4:35 a.m. and Chandi Mandir toll plaza on 04.04.2023 at 05:06 a.m. to 05:10 a.m. He submits that on 04.04.2023 at 06:00 a.m. he was very much at his hometown Naraingarh, when he was apprehended by some person and kept apprehended till 01:20 p.m. It is submitted that in order to prove his innocence, it is necessary to bring the CDRs and tower location on the Court file of the persons who remained connected with the present case, which are material piece of evidence for the just and fair decision of the present case. It is further submitted that admissibility of the electronic record in criminal trial is not under dispute as his evident from Sections 65-A and 65-B of the Indian Evidence Act. He has relied upon the judgments in Suresh Kumar vs. Union of India, 2015(3) RCR (Criminal) 340; Paramjit Kaur vs. State of Haryana, 2024(1) RCR (Criminal) 104 and Dinesh @ Kala vs. State of Haryana, passed in CRR-1732-2023 on 31.07.2024. He, thus, submits that learned trial Court has failed to appreciate the law settled and thus, has illegally rejected the application filed by the petitioner vide impugned order dated 08.05.2024, which is unsustainable in the eyes of law and deserves to be set aside.

3. However, learned State counsel has opposed the submissions made by learned counsel for the petitioner. He has submitted that the impugned order does not suffer from any infirmity. It is submitted that providing call details of the members of Investigating team would prejudice their security and privacy and thus, would adversely affect the prosecution



case. He relied upon judgment of this Court in Parveen Kumar vs. State of Haryana, passed in CRM-M-49513-2023 on 03.10.2023 and judgment of Kerala High Court in C.Nimith vs. State of Kerala, in CrI.MC No.4492 of 2014 decided on 18.08.2014. He, thus, submits that the present petition being devoid of any merit deserves to be dismissed.

4. Heard learned counsel for the parties and perused the record. The precise submission made by counsel for the petitioner is for preserving the call details and CCTV footage. As contended the petitioner had been illegally arrested in the present case, as at the relevant time, he was in his hometown and not at the place from where his arrest was shown by the prosecution. Perusal of the impugned order would show that the same has been declined primarily on the ground that preserving the call details of the raiding party would expose and put life of the Investigators to risk and it would breach the privacy of the police officials/Investigators. However, Hon'ble Supreme Court has already dealt with this issue in Suresh Kumar's case (supra), 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.”

5. Thus, security and privacy of the police officials investigating

the case has been taken care of. The call records as sought to be preserved by the petitioner is to prove his innocence. Hence, keeping in view the ratio of law as held by Hon’ble Supreme Court in Suresh Kumar’s case (supra), the present petition is allowed and the order dated 08.05.2024 is set aside. However, the other record of call details pertaining to officials, which is not relevant for determining the location of the concerned police officials, is not to be provided to the petitioner. Thus, it has to be ensured that only that record of the calls which is relevant for the just decision of the case would be used during the trial and not the record which has no relevancy or put the privacy of the police officials at risk.

6. Present petition stands allowed in above-said terms.

07.04.2025 sharmila		(RAJESH BHARDWAJ) JUDGE
	Whether Speaking/Reasoned	: Yes/No
	Whether Reportable	: Yes/No