



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

Sr.No.138

**CRM-M-15486-2026
Decided on : 27.05.2026**

Bijender

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM : HON'BLE MS. JUSTICE RUPINDERJIT CHAHAL

Present : Mr. Parveen Sharma, Advocate
for the petitioner.

Mr. Mohit Chaudhary, AAG, Haryana
for the respondent-State.

RUPINDERJIT CHAHAL, J (ORAL)

1. The petitioner is challenging the impugned order dated 19.02.2026, passed by the Court of learned Additional Sessions Judge, Sonipat whereby the application filed by the petitioner under Section 91 Cr.P.C. for producing and preserving the call details records and tower location of certain police officials was dismissed.

2. Learned counsel appearing for the petitioner *inter alia* contends the petitioner has been falsely implicated in a case FIR registered against him under the Narcotic Drugs & Psychotropic Substances Act, 1985 Act (Annexure P-1). He further contends that he was illegally picked up by certain police officials of STF and planted false recovery of contraband upon him. Learned counsel contends that the incident of his illegal detention was



captured in the CCTV cameras. He further contends that the father of the petitioner submitted representation (Annexure P-4) for preserving of CCTV footage of the toll plaza before the Human Rights Commission but the same were not provided. Learned counsel further contends that during the trial, application under Section 91 of the Cr.P.C. was also moved for preservation and production of call detail records alongwith tower location of the mobile phones of police officials of STF Unit but the said application was dismissed vide impugned order dated 19.02.2026. He further contends that the call details and the tower locations are extremely vital for proving the illegal detention of the petitioner by the investigating agency. Any denial of these details would seriously prejudice the case of the petitioner to prove his innocence. The learned trial Court has not considered the issue in right earnest rather rejected the application filed by the petitioner in a mechanical manner without assigning any reason.

3. Per contra, learned State Counsel contends that production of the call details and the tower location of the police officials would expose the secret informers, who help the investigating agency in intercepting the anti-social elements and these details cannot be made available for public in routine matter as it would also put the witnesses in danger. He further contends that the learned trial Court has rightly rejected the application filed by the petitioner on cogent grounds.

4. Having heard learned counsel for the parties and after a perusal of the record, it transpires that the learned trial Court has dismissed the application filed by the petitioner under Section 91 Cr.P.C. on the ground that the petitioner has CCTV footage available to build up his defence. Further, the police officials are regularly engaged in investigation and



maintaining contacts with secret informers. Preserving the CDRs of their mobile phones or their production before the court would compromise their personal safety and jeopardise the ongoing investigation and would also involve risk of exposing confidential sources, ultimately affecting the ability of the investigating agency to function effectively.

5. A perusal of the application filed by the petitioner (Annexure P-1) indicates that the petitioner has taken a specific ground that the petitioner was taken by the police illegally and planted the recovery of alleged contraband upon him and the movements were recorded in the CCTV. As such, producing and preserving of the calls details records and tower location of certain police officials is essential.

6. A two Judge Bench of the Hon'ble Supreme Court in ***Suresh Kumar Vs. Union of India 2015 (3) RCR (Criminal) 340*** has considered the necessity and desirability of preserving the call detail records and tower location at the behest of the accused under the NDPS Act and speaking through Justice T.S. Thakur has held as under:-

“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.”

7. For proper adjudication of the issue, it would be apt to reproduce Section 91 Cr.P.C, which is as under:-



“91. Summons to produce document or other thing.

(1) Whenever any Court or any officer in charge of a police station considers that the production of any document or other thing is necessary or desirable for the purposes of any investigation, inquiry, trial or other proceeding under this Code by or before such Court or officer, such Court may issue a summons, or such officer a written order, to the person in whose possession or power such document or thing is believed to be, requiring him to attend and produce it, or to produce it, at the time and place stated in the summons or order.

(2) Any person required under this section merely to produce a document or other thing shall be deemed to have complied with the requisition if he causes such document or thing to be produced instead of attending personally to produce the same.

(3) Nothing in this section shall be deemed--

(a) to affect sections 123 and 124 of the Indian Evidence Act, 1872 (1 of 1872), or the Bankers Books Evidence Act, 1891 (13 of 1891), or

(b) to apply to a letter, postcard, telegram or other document or any parcel or thing in the custody of the postal or telegraph authority.”

8. Preserving and requisitioning of the call details and tower location details would be necessary, otherwise the same would be lost forever. The right of accused to invoke the provisions of Section 91 Cr.P.C. for obtaining documents in support of his defence has been recognized by the Constitutional Courts. The legislative intent behind enactment of Section 91 Cr.P.C. is to ensure that no cogent material or evidence involved in the issue remains undiscovered in unearthing the true facts during investigation, enquiry, trial or other proceedings. No doubt while passing the appropriate direction for preserving and production of call details/tower location details under Section 91 Cr.P.C. would violate the right to privacy of the police



officials but the right of the accused under Article 21 of the Constitution of India in ensuring free and fair investigation/trial would prevail over the right to privacy of the police officials. Some extent of privacy can be breached in production of the said call details, as this would facilitate the learned trial Court in discovering the truth and rendering justice, which is fair to all stake holders.

9. The denial of an adequate opportunity to the accused by nonproduction of the electronic record, which is admissible under Section 65-A and 65-B of the Indian Evidence Act in criminal trial, would amount to miscarriage of justice. Section 91 Cr.P.C. helps in facilitating a fair and just resolution to the case by ensuring that relevant evidence is made available to the Court for making informed decisions and arrive at a just and fair outcome. It enables the Court to secure important documentary evidence that may be in possession of individuals or organization and helps prevent the destruction, tampering or loss of crucial documents, thereby maintaining the integrity of the judicial process. The power under 91 Cr.P.C. must be exercised for production of such evidence, which would assist the Court in discovering the truth in the pursuit of justice. However, the right of privacy of the police officials cannot be breached at the ipse dixit of the accused. Before any such order for production of call details/tower location is passed, the accused is required to prove necessity and desirability of such evidence, which would be relevant to establish the guilt or innocence of the accused.

10. As principles of natural justice are integral part of fair trial under Article 21 of the Constitution of India, any denial of the best available evidence or effective and substantial hearing to accused in proving defence would amount to denial of free and fair trial.



11. In view of the observations made hereinabove and without going into the merits of the case, the impugned order dated 19.02.2026 is hereby set aside. The learned trial Court is directed to pass necessary directions under Section 91 Cr.P.C. for preserving and production of the call details/tower location details of the phone numbers of the certain police officials as mentioned in the application under Section 91 Cr.P.C. (Annexure P-6).

12. The instant petition stands disposed of in above terms.

27.05.2026
mamta

(RUPINDERJIT CHAHAL)
JUDGE

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