



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

**CRM-M-4783-2026 (O&M)
Reserved on:-26.02.2026
Pronounced on:- 27.02.2026
Uploaded on:- 28.02.2026**

*Whether only operative part of the judgment is
Pronounced or the full judgment is pronounced: operative part/full judgment*

KESHAV GANDHI

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MS. JUSTICE MANDEEP PANNU

Present: Mr. Abhimanyu Batra, Advocate
for the petitioner.

Mr. Sushil Bhardwaj, Addl. A.G. Haryana.

MANDEEP PANNU, J

1. Criminal Miscellaneous Petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) for quashing/setting aside the order dated 05.01.2026 passed by the Court of learned Additional Sessions Judge, Jind in Case No. NDPS/61/2025 arising out of FIR No. 200 dated 27.07.2025 under Sections 22-C and 27-A of the NDPS Act (Section 27-A of NDPS Act added later on), registered at Police Station Julana, District Jind, whereby the application filed by the petitioner for preserving and producing the call detail record, tower location, timeline, IMEI/IMSI details, movement and connectivity logs of the official mobile numbers of

PW-1 to PW-4 and PW-7 for the period dated 27.07.2025 has been dismissed.

2. Learned counsel for the petitioner submits that an application was moved by accused Keshav Gandhi before the learned trial Court seeking directions for preserving and producing the call detail report (CDR), tower location, timeline, movement and connectivity logs of the official mobile numbers of PW-1 to PW-4 and PW-7, as mentioned in the list of witnesses. In the said application, it was pleaded that the accused had been in illegal custody from about 12:13 p.m. to 4:30 p.m. and though as per the prosecution case he was apprehended at 4:30 p.m., in fact he had remained in police custody prior thereto. It was, therefore, contended that in order to establish the plea of illegal confinement, it was necessary to call for and preserve the CDR and location details of the police witnesses concerned. In reply to the said application, the prosecution filed its response opposing the prayer. It was contended that the application was based on mere assumptions and the Court could not embark upon a roving inquiry. The prosecution further stated that the call details of the police officials were not relevant for the adjudication of the case and that merely to create evidence in favour of the accused, the Court could not permit intrusion into the privacy of police officials qua the use of their mobile phones. The learned Additional Sessions Judge, Jind, after considering the rival submissions, vide impugned order dated 05.01.2026, dismissed the application. The learned trial Court observed that the issue sought to be raised by the accused was a matter of trial and that compliance of procedural requirements would be examined during evidence. It was further held that preservation of call records of the police officials for establishing alleged illegal confinement was not

warranted at that stage and that the Court could not permit breach of privacy of the officials concerned. Consequently, the application for preserving and producing the call detail records and related data was dismissed.

3. Learned counsel for the petitioner contends that the impugned order dated 05.01.2026 passed by the learned Additional Sessions Judge, Jind is illegal and contrary to the settled principles of criminal jurisprudence. It is submitted that the petitioner has consistently taken a specific plea that he was kept in illegal custody by the police officials from about 12:13 p.m. to 4:30 p.m. on 27.07.2025 and that the alleged recovery has been falsely planted upon him. According to the petitioner, though the prosecution claims that he was apprehended at 4:30 p.m., his own mobile phone location, as reflected in the CDR already forming part of the challan, shows continuous presence at Julana during the relevant period and further indicates that the phone was put on airplane mode or switched off, thereby supporting his plea of illegal detention.

4. It is further contended that in order to substantiate this defence and to establish the true sequence of events, the petitioner had moved an application seeking preservation and production of the call detail record, tower location, timeline, IMEI/IMSI data, movement and connectivity logs of the official mobile numbers of PW-1 to PW-4 and PW-7 for the relevant date and time. The petitioner submits that the said electronic record is crucial for determining the actual location and movement of the police officials and for testing the veracity of the prosecution version regarding the time and place of apprehension. The petitioner argues that the prosecution opposed the application on technical grounds and raised an objection relating to privacy of the police officials, which, according to the petitioner, is

misplaced when the limited and specific data sought is directly connected with the defence of illegal custody. It is submitted that the learned trial Court, without properly appreciating the relevance and necessity of the documents sought, dismissed the application mechanically and thereby curtailed the petitioner's right to effectively defend himself.

5. It is also contended that unless the said records are preserved immediately, the same are liable to be deleted in due course as per telecom retention policies, which would cause irreparable prejudice to the petitioner and deprive him of material evidence necessary to prove his innocence. The petitioner, therefore, asserts that the impugned order dismissing the application is unsustainable and has resulted in serious prejudice to his defence.

6. Learned counsel for the petitioner contends that the learned trial Court has failed to appreciate the settled legal position that an accused is entitled to seek preservation of electronic evidence at an appropriate stage so that such material is not destroyed before the defence evidence stage. It is submitted that the prayer of the petitioner was not for immediate summoning or exhibition of the call detail records, but only for preservation of the same for a specific and limited period, in order to safeguard his right to a fair trial.

7. It is further contended that the reasoning adopted by the learned trial Court that such a plea would be maintainable only at the stage of defence evidence is erroneous, as by that time the relevant data may no longer be available with the telecom service providers due to data retention policies. The petitioner submits that if the records are not preserved at this stage, he would suffer irreparable prejudice, as potentially exculpatory material would be permanently lost.

8. Learned counsel argues that the request was specific, confined to identified official mobile numbers of prosecution witnesses for a defined time period, and was directly connected with the defence plea of illegal custody and false implication. It is contended that the objection relating to privacy of police officials is misconceived in the present context, as the preservation of data for judicial scrutiny does not amount to its public disclosure and can always be subject to safeguards and relevance being determined at a later stage.

9. The petitioner thus submits that the impugned order dismissing the application proceeds on a hyper-technical approach, ignores the necessity of preserving electronic evidence, and effectively defeats the petitioner's right to lead an effective defence.

10. On the other hand, learned State counsel has argued that there is no illegality or perversity in the impugned order passed by the learned trial Court. It is contended that the call detail records and location details of the police officials, as sought by the accused, if permitted to be produced, may expose sensitive information and put the lives of informants at risk. It is further submitted that such a direction would amount to unwarranted intrusion into the privacy of the police officials. Learned State counsel has also argued that, in any case, merely on the basis of mobile phone call detail records or tower locations, it cannot be conclusively held that the police officials were not present in the area in question at the time of the alleged recovery.

11. Having heard learned counsel for the parties and perused the record, this Court finds merit in the present petition. The Hon'ble Supreme Court in '*Tarun Sharma @ Vipul & Anr. versus State of U.P. and another*',

Criminal Appeal no. 30 of 2025 decided on 03.01.2025 has categorically held that an accused is entitled to seek preservation of electronic evidence at an appropriate stage of the proceedings and that such a request cannot be rejected merely on the ground that the stage of defence evidence has not yet arrived, particularly when there exists a real possibility of destruction or loss of such data due to data retention policies of service providers. It has further been observed that preservation of relevant electronic material is integral to ensuring a fair trial and that the trial Court must adopt a balanced approach safeguarding both privacy concerns and the rights of the accused.

12. In the present case, the prayer of the petitioner is specific and limited to identified official mobile numbers for a defined period on a particular date. The petitioner has taken a categorical plea of illegal custody and seeks to preserve electronic data in support thereof. The apprehension expressed by the State regarding privacy and safety can be adequately addressed by directing that the records be preserved and produced in a sealed cover, subject to orders of the trial Court regarding relevance and admissibility at the appropriate stage.

13. The learned trial Court, while dismissing the application, failed to consider the aspect of possible deletion of data and the prejudice that may be caused to the petitioner if such material is not preserved in time. The reasoning that such a plea may be raised only at the stage of defence evidence overlooks the practical reality of limited data retention periods maintained by telecom service providers.

14. In view of the aforesaid discussion and the law laid down by the Hon'ble Supreme Court in *Tarun Sharma @ Vipul's case (supra)*, the impugned order dated 05.01.2026 cannot be sustained.

15. Accordingly, the present petition is allowed. The impugned order dated 05.01.2026 passed by the learned Additional Sessions Judge, Jind is hereby set aside. The concerned telecom service providers are directed to preserve the call detail records, tower location, IMEI/IMSI data, movement and connectivity logs of the official mobile numbers of PW-1 to PW-4 and PW-7 for the relevant date and time period as mentioned in the application. The said record shall be produced before the learned trial Court in a sealed cover, to be opened and considered at the appropriate stage in accordance with law.

16. However, it is made clear that nothing observed herein shall be construed as an expression on the merits of the case pending before the learned trial Court.

17. All pending miscellaneous application(s), if any, stands disposed of.

27.02.2026

Poonam Negi

**(MANDEEP PANNU)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No