

IA 8/2026 in SC 167/2025
FIR No. 4/2025
PS Special Cell
State v. Kailash

19.05.2026

Present: Sh. A.B Asthana, Ld. Addl. PP for the State.
Sh. Suchit, Ld. Counsel for applicant/accused.

Vide my separate order of even date, the present application under Section 94 BNSS for preservation / production of records is partly allowed.

Copy of the order be given dasti as well as be sent to jail superintendent for supplying the same to accused in jail.

(Jitendra Pratap Singh)
ASJ NDPS Act
(Special Judge)/PHC
NDD/19.05.2026

**IN THE COURT OF JITENDRA PRATAP SINGH
ADDL. SESSIONS JUDGE /SPECIAL JUDGE (NDPS),
NEW DELHI DISTRICT, PATIALA HOUSE COURTS,
NEW DELHI**

IA 8/2026 in SC 167/2025

FIR No. 4/2025

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ORDER

1. Vide this order, I shall dispose of an application moved on behalf of the accused under Section 94 BNSS seeking preservation, production and summoning of CCTV footage, CDRs, CAFs, tower location records and other electronic evidence.

2. Briefly stated, the case of the applicant/accused, as set out in the application, is that he has been falsely implicated in the present matter and was illegally detained by the officials of the investigating agency much prior to the alleged time of arrest reflected in the prosecution record. That he and co-accused Ajay @ Hanuman were returning from Guwahati to Jodhpur by train and some police officials were also traveling in the same compartment. Ajay @ Hanuman lost his mobile phone and borrowed the fellow passenger Anil Yadav's phone to call his wife. Subsequently, an altercation took place between him and Anil Yadav. Thereafter, at Tundla Station, the police officials disclosed their identity. That the applicant had been apprehended with co-accused Ajay @ Hanuman at Tundla Railway Station in the intervening night of 30/31.12.2024. It has been specifically

averred that the accused was apprehended while travelling by train and was taken into custody from the Tundla area, whereas the prosecution has falsely shown his apprehension at Delhi on 01.01.2025 after he was brought to Delhi in a vehicle no. DL1CAE1594 by the officials of Special Cell.

3. It is further submitted that after his illegal detention, he remained in the custody of the investigating agency for a considerable period before his formal arrest was shown in the present case. The accused has alleged that the entire recovery proceedings have been fabricated subsequently in order to falsely implicate him in the present FIR. It is further stated that the accused was not produced immediately after apprehension and that the prosecution has deliberately concealed the true chronology of events.

4. It is further argued that the accused had remained in continuous touch with his family members prior to the alleged apprehension and that the actual movement and location of the raiding officials as well as the accused can be verified through electronic evidence. It is submitted that the members of the raiding team were carrying official as well as personal mobile phones during the alleged operation and, therefore, their Call Detail Records, CAFs and tower location charts would disclose their actual movement and whereabouts during the relevant period.

5. The accused has further sought preservation of CCTV

footage of the office/premises of Special Cell as well as adjoining entry and exit points for the relevant period on the ground that such footage may reveal the actual time when the accused was brought to the office of the investigating agency.

6. It has further been prayed that the concerned telecom service providers be directed to preserve the CDRs and tower location details of the mobile numbers i.e. 8000610084 of applicant Kailash, mobile number 6376334028 of co-accused Ajay @ Hanuman, mobile number 8302761285 of Ms. Santosh (wife of Ajay @ Hanuman), mobile number 9212666698 of police official Anil Yadav for the relevant period i.e. 30.12.2024 and 31.12.2024.

7. The accused has specifically argued that electronic evidence is volatile in nature and remains preserved only for a limited duration. It is submitted that unless immediate directions are passed for preservation of the said material, the same may be automatically deleted or overwritten in the ordinary course of business, thereby causing irreparable prejudice to the defence of the accused.

8. The application has been opposed by the Ld. Addl. PP. It is submitted that the present application is wholly misconceived and has been moved only with an intention to delay the trial proceedings. It has been contended that the allegations regarding illegal detention and false implication are baseless and devoid of any supporting material. According to the prosecution, the

accused was apprehended lawfully in accordance with the provisions of the NDPS Act and all mandatory procedural safeguards were duly complied with during the investigation.

9. The prosecution has further submitted that the application seeks a roving and fishing inquiry and that the accused cannot be permitted to embark upon an indefinite search for material in the hope of creating a defence. It is stated that no prima facie material has been placed on record by the accused to substantiate his allegations regarding prior illegal custody.

10. It has further been argued on behalf of the prosecution that the movement details, location charts and CDRs of the members of the raiding team pertain to sensitive operational information of officials posted in Special Cell and disclosure of such information may adversely affect operational secrecy, future investigations and the security of police personnel. It is further stated that unrestricted preservation and disclosure of such records may expose the operational pattern and deployment methodology of specialised units involved in organised crime and NDPS investigations.

11. The prosecution has also submitted that the case property was recovered pursuant to a duly conducted raid and that the proceedings were contemporaneously documented in the official record. It has further been contended that the arrest memo, seizure memo and other documents prepared during investigation sufficiently establish the prosecution case at this stage and the

application has been filed merely to create unnecessary doubt and delay.

12. It is further submitted that no useful purpose would be served by directing preservation or production of the records sought by the accused and that the application deserves outright dismissal.

13. I have heard the submissions advanced by Ld. Counsel for the accused as well as Ld. Addl. PP for the State and have carefully perused the record.

14. At the outset, it may be observed that the accused has taken a specific and identifiable defence regarding his alleged illegal apprehension and false implication. Whether such defence ultimately succeeds or not is a matter to be adjudicated during trial upon appreciation of evidence. However, at the present stage, this Court is only concerned with the limited issue as to whether the electronic record sought by the accused deserves preservation.

15. Electronic evidence such as CCTV footage, CDRs and tower location records is inherently fragile in nature and susceptible to deletion or overwriting with passage of time. Once such data is erased, the same may become permanently unavailable. Therefore, where an accused raises a specific plea capable of being tested through electronic evidence, the Court would be justified in directing preservation of such material so

that the accused is not deprived of an opportunity to establish his defence during trial.

16. At the same time, the objections raised by the prosecution regarding operational confidentiality and security concerns of Special Cell officials also deserve due consideration. The Court is conscious of the fact that unrestricted disclosure of operational movement details of specialised police units may not be appropriate at the initial stage of proceedings. This Court also finds substance in the concern expressed by the prosecution regarding privacy and operational confidentiality of the police officials concerned. Mere preservation or subsequent production of CDRs should not result in unnecessary disclosure of private communications or identities of unrelated persons who may have contacted the concerned officials during the relevant period. Therefore, in the event the preserved CDRs are produced before the Court at any subsequent stage, the investigating agency/service providers shall ensure that, except for the relevant mobile numbers specifically referred to in the application and such entries as may be considered necessary for adjudication of the controversy involved in the present case, all other unrelated mobile numbers and identity particulars appearing in the CDRs are suitably masked/concealed so as to protect the privacy of the police officials as well as third parties who may have been in communication with them.

17. In the considered opinion of this Court, the competing interests can be adequately balanced by directing preservation of

the relevant electronic record at this stage while deferring the question of its production or supply for consideration at the appropriate stage of trial.

18. Accordingly, the present application is partly allowed in the following terms:

- (i) The concerned telecom service providers shall preserve the CDRs, CAFs and tower location records pertaining to the mobile numbers, as mentioned in the application, for the period from 30.12.2024 to 01.01.2025.
- (ii) The concerned authority/department shall preserve the CCTV footage, if available, pertaining to the relevant areas of PS/Special Cell office for the period from 31.12.2024 from 05:00 AM till 01.01.2025 till 06:00 PM.
- (iii) The preserved electronic material shall not be deleted, destroyed or overwritten till further orders of the Court.
- (iv) At this stage, no direction is being issued for immediate production, inspection or supply of the preserved record to the accused. The question regarding production or summoning of the preserved material shall be considered at the appropriate stage of trial, if required.
- (v) In the event the preserved CDRs are produced before the Court at any subsequent stage, all unrelated mobile numbers and identity particulars, except the relevant numbers necessary for adjudication of the present application/trial, shall be suitably masked or concealed so as to protect the privacy and confidentiality of the police officials concerned and third parties who may have

contacted them.

19. Nothing stated herein shall tantamount to an expression on the merits of the case or the defence sought to be raised by the accused.

20. Application stands disposed of accordingly. Copy of the order be given dasti as well as be sent to the IO for information and compliance.

(Jitendra Pratap Singh)
ASJ NDPS Act
(Special Judge)/PHC
NDD/19.05.2026