

CNR No. DLNE01-002717-2021

IA No. 03/2021

Mumrez Alam Vs State

In re:-

SC No. 280/2021

FIR No. 200/2021

PS: Seelampur

U/s 21/29 NDPS Act

09.09.2021

Present: Sh. Vaibhav Sharma and Sh. Varun Sharma, Ld.
Counsels for applicant.

Sh. Masood Ahmad, Ld. Addl. PP for the State along
with SHO PS Seelampur.

Submissions on the application u/s 91 Cr.PC are
heard.

By way of present application, the applicant is seeking directions from the preservation and production of cell phone location alongwith cell location code chart for 18.06.2021 of the police officials. The applicant was apprehended by the police pursuant to a secret information on 18.06.2021 and as per case file, 10 gram smack was recovered from his personal search taken in presence of Gazetted Officer pursuant to service of notice u/s 50 NDPS Act, 1985. The raiding team was comprising ASI Vijender Singh, HC Chander Prakash, Ct. Lokesh and Ct. Ajeet. The applicant is denying the recovery of any contraband from his possession by the raiding party as claimed by the police and it is his version that the case is concocted and fabricated and

that he was picked up from Shastri Park Metro Station at around 06:00 pm for no fault on his part and thereafter he was taken to PS Seelampur where the case was fabricated and contraband was planted upon him. It is submitted on behalf of applicant that the version of the applicant stands confirmed from the location code chart of the applicant which is in conformity with his version. The applicant has annexed the details of the location provided by Nodal Officer of Vodaphone Idea Limited of his mobile phone no. 9873439044 dated 18.06.2021 and the data given by the Nodal Officer, Reliance Jio Infocomm Ltd of mobile phone no. 7011124312. In support of the application, reliance is placed upon the case titled State (Government of NCT of Delhi) Vs Nizamuddin @ Nizam, CrI. Rev. P. 276/2018 decided on 28.01.2021.

The application is opposed by the investigating agency with the submissions that the details/documents sought are not part of chargesheet and there is nothing on record which would indicate that the record submitted is false so far as the recovery and arrest of the accused is concerned. It is further submitted that this would amount to intrusion in privacy of police officials who were dealing with the matter and providing the call details might adversely effect investigation of other cases. The investigating agency has provided the telephone numbers of the police officials who were member of the raiding team as well as the investigating officer by whom the proceedings were carried out after registration of the case.

The application is opposed by Ld. PP with the submissions that the record may be called only during the trial and at the time of disposal of the bail application, the applicant

has no right to call the said record. It is further submitted that at the time of adjudication of bail application, mini trial is not permissible and calling the details of the record of telephone of police will amount the trial.

In the case relied upon by the applicant, the Hon'ble High Court of Delhi after analyzing the earlier cases has upheld the orders passed by Ld. ASJ, Karkardooma Courts vide which investigating officer was directed to procure the call detail records and location via mobile towers of all members of the raiding team. The Hon'ble High Court has also dealt with the power of the Court u/s 91 Cr.PC and has held that said power may be exercised for purposes of any proceedings before the Court. The order of the Ld. ASJ qua this was modified qua the directions to collect the record of secret informer.

Thus, in view of the facts and circumstances of the present case where bail applications of the applicant is pending and for adjudication of said application appropriately, the version of the applicant that he was not apprehended in the manner and the place as disclosed in the record needs to be considered. The power laid down u/s 91 of Cr.PC may be exercised by this Court at this stage and the same does not amount mini trial. Accordingly, the application is allowed holding that only the location chart of the mobile phones of the police officials is required and details of the calls received or made by the police officials is not required by this Court for this matter. The SHO PS Seelampur to collect the location chart of the mobile phones of the police officials mentioned in the reply given to the application alongwith the location codes from the service providers and to place the same before the Court in closed

envelop till the next date of hearing.

The telephone numbers of the police officials are not being mentioned in the order deliberately so that the official work of said police officials does not hamper due to disclosure of their telephone numbers.

Copy of the order be sent to the SHO through mail and the bail applications be put up on **17.09.2021** for consideration and report.

(SUNIL CHAUDHARY)
Special Judge (NDPS)/ASJ
North East/ Delhi 09.09.2021