

RAJASTHAN HIGH COURT

सत्यमेव जयते

HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR

S.B. Criminal Miscellaneous (Petition) No. 1578/2025

Kana Ram S/o Shri Rama Ram, Aged About 36 Years, Melba,
Jhawar P.s., Distt. Jodhpur.

-----Petitioner

Versus

State Of Rajasthan, Through Pp

-----Respondent

For Petitioner(s)	:	Mr. Vijay Raj Bishnoi, Adv.
For Respondent(s)	:	Mr. Vikram Singh Rajpurohit, PP

HON'BLE MR. JUSTICE ANIL KUMAR UPMAN

Order

15/04/2026

1. Instant Criminal Misc. Petition under Section 528 of Bharatiya Nagarik Suraksha Sanhita Act, 2023 (in short 'BNSS') has been filed on behalf of the petitioner assailing the order dated 10.02.2025, passed by learned Special Judge, NDPS Act Cases, Jodhpur Metro in Session Case No.126/2024 whereby the application filed under Section 94 of BNSS by the petitioner for summoning/preserving Call Details Record (CDR) and cell phone tower location of concerned police officials has been dismissed.
2. Brief facts of the case, as emerging from the record, are that FIR No.131/2024 was registered at Luni Police Station, District Jodhpur and after completion of investigation, charge-sheet was filed against the accused before the trial Court for offences punishable under Sections 8/18 & 29 of the NDPS Act. During the pendency of the proceedings, the petitioner moved an application under Section 94 of the BNSS, seeking summoning of the CDR and

cell phone tower location details of the concerned police officials for the period from 1:00 PM to 7:00 PM on 02.06.2024. After hearing both the parties, the learned trial Court dismissed the said application. Hence, the present Criminal Misc. Petition.

3. Learned counsel appearing on behalf of the petitioner submits that the learned trial Court has committed a grave error of law as well as of facts in passing the impugned order, which is per se illegal, contrary to the material available on record, and has been passed without due application of judicial mind. It is contended that, as per the prosecution case, the alleged recovery of contraband was effected on 02.06.2024 from the possession of the petitioner and co-accused Dhannaram. Learned counsel submits that the presence of the petitioner at the time of the alleged recovery has been falsely shown by the prosecution. It is further submitted that for the just and fair adjudication of the matter, it is essential to summon the CDR and cell phone tower location details of the concerned police officials. These records would assist in ascertaining the veracity of the prosecution's version and unveil the truth regarding the alleged recovery of contraband from the petitioner. Accordingly, it is prayed that the impugned order be quashed and set aside, and the learned trial Court be directed to summon the CDR and cell phone tower location details of the police officials.

4. Learned State Counsel opposes the submissions advanced on behalf of the petitioner and submits that the impugned order is just and proper and does not warrant any interference.

5. I have considered the submissions advanced by the learned counsel for the parties and perused the impugned order as well as other material available on record.

6. The summoning of the CDR and cell phone tower location details of the concerned police officials would not, in any manner, cause prejudice to the prosecution; rather, it would substantially assist the learned trial Court in arriving at a just, fair and proper adjudication of the case. A perusal of the record would reveal that the learned trial Court dismissed the impugned application on the ground that the conversation between the police officials, senior officers and informant in respect of alleged recovery is a very confidential conversation and therefore, it would not be proper to allow the application of the petitioner.

7. The CDR and cell phone tower location details of the police officials assume great relevance and constitute a material piece of evidence, as the same would objectively establish their presence or absence at the scene of the incident and thereby aid the Court in adjudicating the matter.

8. Hence, the learned trial Court was not justified in rejecting the petitioner's application under Section 94 of the BNSS, and the impugned order does not withstand judicial scrutiny.

9. In view of the above, instant Criminal Misc. Petition is allowed and the impugned order dated 10.02.2025 passed by learned Special Judge, NDPS Act Cases, Jodhpur in Session Case No.126/2024 is hereby quashed and set aside. The application filed on behalf of the petitioner under Section 94 of the BNSS is hereby allowed. The learned trial Court is directed to issue appropriate directions to the respondent-State, the concerned

police officials, as well as the service provider(s) of the respective mobile numbers, for furnishing the requisite CDR and cell phone tower location details of the police officials whose names are mentioned in the petitioner's application. The concerned police officials of the Police Station shall also take prompt steps to procure the aforesaid electronic record at the earliest, so as to prevent any possibility of its destruction, loss, or deletion. Upon receipt of the said record, the learned trial Court shall ensure that it is taken on record in accordance with law, along with the requisite certificate under Section 65-B of the Indian Evidence Act. The said material shall be made available to both parties for use at the appropriate stage of the trial. It is further directed that the accused shall be at liberty to confront the concerned police officials with the said electronic record during their examination, in accordance with law. This permission is granted solely to test the credibility of the witnesses and to enable the parties to bring the truth on record. It is clarified that this shall not amount to leading defence evidence, but shall serve as a means to verify and scrutinize the prosecution case. The accused shall be at liberty to rely upon the aforesaid Call Detail Records and tower location details at the appropriate stage of the trial.

10. The stay application and pending application(s), if any, also stand disposed of.

(ANIL KUMAR UPMAN),J