

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Misc(Pet.) No. 273/2020

Swarn Singh @ Baba S/o Mahender Singh, Aged About 49 Years,
Village 43F Baringa P.s. Sri Karanpur District Sri Ganganagar.

-----Petitioner

Versus

State, Through Pp

-----Respondent

For Petitioner(s) : Mr. Kailash Khilery

For Respondent(s) : Mr. Farzand Ali GA-cum-AAG

Mr. Mahipal Bishnoi, PP

HON'BLE MR. JUSTICE SANDEEP MEHTA

REPORTABLE

Order

18/02/2020

Issue notice of the Misc. Petition as well as of the stay petition to the respondent.

Learned Public Prosecutor accepts notice on behalf of respondent-State. Thus notice need not be issued. The matter is heard finally today itself.

The petitioner is facing trial in the court of learned Additional Sessions Judge, Sri Karanpur district Sri Ganganagar in Sessions Case No.18/2019 of the offences under Sections 8/18, 25 and 29 of the NDPS Act. He filed an application in the trial court seeking summoning of the call details of the Seizure Officer and some other police officials for the date of seizure i.e. 15.02.2019 claiming that these officials were not present at the place of the

seizure on the date and time alleged. The said application was rejected by the trial court by order dated 03.01.2020, which is assailed in this Misc. Petition.

Having heard and considered the submissions advanced by learned counsel for the parties and after going through the impugned order and so also keeping in view the ratio of this Court's judgments relied upon by the counsel for the petitioner in the matters of **Manju Devi (Smt.) Vs. State of Rajasthan 2014 (3) Cr.L.R. (Raj.) 1226, Jasveer Vs. State of Rajasthan 2015 (1) Cr.L.R.(Raj.) 526) and Sheru @ Surajnath 2014 (1) R.Cr.D.435 (Raj.)**, I am of the firm opinion that summoning of these call details was absolutely imperative for fair trial and providing a just opportunity of defence to the accused. In case, the allegations set out in the application for summoning the call details are fortified from the call details, manifestly, the entire prosecution case would stand falsified. Therefore, the trial court was not justified in rejecting the application by the impugned order which does not stand to scrutiny.

It is therefore ordered that the trial court shall, forthwith summon the call details of the mobile phones of all the three officers whose names are referred to in the impugned order from the service provider provided that such call details are still stored in the database. The accused shall be at liberty to use these call details at the appropriate stage of trial.

All Courts in the State of Rajasthan are directed that whenever an application is moved to summon the call details,

during a criminal proceeding, the same shall not be deferred and will be decided forthwith so as to ensure that the prayer to summon the call details is not rendered infructuous by passage of time because the service providers have a protocol of deleting the records after one year whereafter, the same cannot be retrieved.

The Misc. Petition is allowed in these terms.

(SANDEEP MEHTA),J

53-Mamta/-



सत्यमेव जयते