



SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
			<u>WPCRL/1247/2026</u> Petitioner Versus State Of UttarakhandRespondent <u>Hon'ble Alok Mahra, J.</u> Mr. C.K. Sharma and Mr. Nitin Tiwari, learned counsel for the petitioner. 2. Ms. Pushpa Bhatt, learned Addl. Advocate General along with Mr. S.C. Dumka, learned A.G.A. and Mr. Nikhil Bisht, learned Brief Holder for the State. 3. By means of the present writ petition filed under Article 226 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of certiorari quashing the order dated 01.06.2026 passed by the learned Additional Sessions Judge/F.T.S.C., District Haridwar, in Application Page Nos. 32B/1 to 32B/7 preferred under Section 94 of the B.N.S.S. The petitioner has further sought issuance of a writ in the nature of mandamus directing the learned trial Court and the Investigating Agency to preserve and procure the Call Detail Records (CDRs), tower location details and other relevant records in respect of mobile nos. and belonging to the petitioner, mobile nos. and belonging to co-accused Anamika Sharma, mobile no. belonging to co-accused Shubham, and mobile no. belonging to the victim, for the period from 01.04.2024 to 04.06.2025, and to place the said records before the learned trial Court.



		4. Learned counsel appearing for the petitioner would submit that an F.I.R. came to be lodged by respondent no.2 alleging commission of the offence of rape upon his minor daughter by the accused persons, including the present petitioner; that, upon completion of investigation, the Investigating Officer submitted a charge-sheet against the petitioner and other co-accused, whereupon the learned trial Court took cognizance and commenced the trial; that, the three prosecution witnesses, including the prosecutrix, have already been examined. 5. Learned counsel would further submit that during the pendency of the trial, the petitioner moved an application under Section 94 of the B.N.S.S. praying for summoning the Call Detail Records, tower location details and Customer Application Forms (CAFs) pertaining to the aforesaid mobile numbers for the period from 01.04.2024 to 04.06.2025, along with the requisite certificate in a sealed cover. He would further submit that the prosecution opposed the said application principally on the ground that the victim is a juvenile and summoning her Call Detail Records would infringe her right to privacy; that, the learned trial Court, after keeping the application pending for more than three months, rejected the same by the impugned order dated 01.06.2026 only on the ground that since the application sought the CDRs of the victim as well, allowing the prayer would violate her privacy. 6. Learned counsel for the petitioner contended that the impugned order is legally unsustainable, being contrary to the object and mandate of Section 94 of the B.N.S.S.; that, the prosecution case itself proceeds on
--	--	---



		the allegation that the petitioner, along with other accused persons, committed the alleged offence against the victim, who was allegedly induced by her own mother; that, it is an admitted case of the prosecution that all the accused persons as well as the victim were using mobile phones during the relevant period; that, consequently, the tower location details and Call Detail Records constitute material electronic evidence capable of establishing the presence or absence of the petitioner at the alleged place of occurrence. 7. It is further submitted that such electronic evidence is relevant and admissible under the provisions of the B.N.S. and may have a direct bearing on the defence of the petitioner; that, by declining the prayer for preservation and production of the said records, the learned trial Court has deprived the petitioner of a valuable opportunity to effectively defend himself, thereby infringing his fundamental right to a fair trial guaranteed under Article 21 of the Constitution of India; that, while the right to privacy of the victim deserves due protection, such right cannot, in the facts of the present case, completely ignore the accused's constitutional right to obtain relevant evidence necessary for establishing his defence. 8. Per contra, learned State counsel would oppose the writ petition and submitted that no illegality has been committed by the learned trial Court; that, the prosecution evidence is presently being recorded and the accused would have adequate opportunity to lead defence evidence at the appropriate stage. According to the learned State counsel, Section 94 of the B.N.S.S. merely empowers the Court or the officer in charge of a police
--	--	--



		station to require production of documents or electronic records whenever such production appears necessary or desirable for the purposes of investigation, inquiry or trial, and the discretion exercised by the learned trial Court in declining the application does not warrant interference in exercise of writ jurisdiction. 9. In reply, learned counsel for the petitioner submitted that under the Unified Licence conditions issued by the Department of Telecommunications, telecom service providers are required to preserve Call Detail Records only for a limited duration i.e. only for two years, after which the records are liable to be permanently deleted. It is, therefore, contended that unless immediate directions are issued for preservation of the relevant electronic records, the petitioner would irretrievably lose material evidence necessary for his defence. In support of the aforesaid submission, reliance has been placed upon the judgment of the Punjab and Haryana High Court rendered in CRR No. 2263 of 2025, wherein it has been held that denial of access to relevant electronic evidence admissible under Sections 62 and 63 of the B.N.S. may result in miscarriage of justice, and consequently directions were issued under Section 94 of the B.N.S.S. for preservation and production of Call Detail Records and tower location details. 10. Heard learned counsel for the parties and perused the material available on record. 11. The question for consideration is whether the learned trial Court was justified in rejecting the petitioner's application under Section 94 of B.N.S.S. seeking preservation and production of the Call Detail Records
--	--	---



		(CDRs) and tower location details solely on the ground that the records pertained to the victim and their production would infringe her right to privacy. 12. Section 94 of the B.N.S.S. empowers the Court to direct production of any document, electronic communication or other thing where such production appears necessary or desirable for the purposes of investigation, inquiry or trial. Electronic records, including CDRs and tower location details, may constitute relevant evidence depending upon the facts of the case. Where there exists a reasonable apprehension that such records may be permanently destroyed owing to the retention policy of the service provider, the Court is required to consider their preservation so that relevant evidence is not lost. 13. The right of an accused to a fair investigation and fair trial under Article 21 of the Constitution and the victim's right to privacy are both constitutionally protected rights. The Court is, therefore, required to strike a balance between the competing rights. An application seeking production of CDRs cannot be rejected solely on the ground of privacy if the records are prima facie relevant for a just adjudication of the case. At the same time, the trial Court may protect the victim's privacy by adopting appropriate safeguards, such as preservation of the records, production in a sealed cover, redaction of irrelevant material or permitting limited inspection, as the facts of the case may warrant. 14. In the present case, the learned trial Court rejected the petitioner's application solely on the ground that the prayer included
--	--	--



			the victim's mobile number, without examining whether preservation of the electronic records was necessary to prevent their destruction or whether suitable safeguards could adequately protect the victim's privacy. The impugned order, therefore, cannot be sustained. 15. Accordingly, without expressing any opinion on the merits of the criminal case, the impugned order dated 01.06.2026 passed by the learned Additional Sessions Judge/F.T.S.C., District Haridwar is hereby set aside. The matter is remitted to the learned trial Court with a direction to forthwith exercise its jurisdiction under Section 94 of the B.N.S.S. and pass appropriate orders for preservation of the Call Detail Records, tower location details and such other connected electronic records, in respect of mobile nos. and for the period from 01.04.2024 to 04.06.2025, so that the records are not lost due to the retention policy of the service providers. 16. The writ petition is accordingly allowed to the aforesaid extent. 17. Pending applications, if any, shall stand disposed of. 18. It is made clear that the learned court below shall decide the case on its own merits, in accordance with law, without being influenced by any observations made in this order. (Alok Mahra, J.) 17.07.2026 Mamta
--	--	--	--