

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-29159 of 2021

DATE OF DECISION: 31.08.2021

Sujata

...Petitioner

Versus

State of Punjab

...Respondent

CORAM : HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

**Present:- Mr. Sachin Ohri, Advocate
For the petitioner.**

Mr. J.P. Ratra, DAG Punjab.

**Mr. Amritpal S. Sohal, Advocate
For the complainant.**

ARVIND SINGH SANGWAN, J.(ORAL)

1. Prayer in this petition is for grant of anticipatory bail to the petitioner in FIR No. 105 dated 09.06.2021, registered under Sections 420, 198, 199, 200 and 120-B of the IPC at Police Station Dinanagar, District Gurdaspur.
2. While granting interim bail to the petitioner, following order was passed by this Court on 27.07.2021: -

“The zeal and zest of disposing of protection petitions based on a live-in-relationship, on the very first date without issuing notice to the parents of the girl who is aged about 18 years like in the present case, some times result into deep trouble for the girl as petitioner had filed two protection petitions along with co-accused Gaurav and now she is facing the aforesaid FIR.

Learned counsel for the petitioner submits that petitioner Sujata had initially filed a criminal writ petition, bearing

CRWP-10686-2020, along with co-accused Gaurav stating that she is in live-in-relationship with him and both be provided protection. The said petition was dismissed as withdrawn on 22.12.2020, for the obvious reasons that the Bench was not convinced. The petitioner and co-accused Gaurav again filed another criminal writ petition, bearing CRWP-10944-2020, by concealing the factum of first petition which was disposed of on the very first date i.e. 30.12.2020 with a direction to S.S.P., Gurdaspur to look into the representation dated 24.12.2020 seeking protection to the life and liberty of the petitioners therein.

Thereafter, the mother of the petitioner, namely Rozy, filed a CRM-W-39-2021 in CRWP-10944-2020 for recalling the order dated 30.12.2020 on two counts; firstly that the withdrawal of the first petition, i.e. CRWP-10686-2020, was not disclosed in the second petition and secondly that Gaurav is a married person having a living spouse namely Nisha and, therefore, the claim of live-in-relationship is apparently false. The said application was also disposed of with a direction to S.S.P., Gurdaspur to look into the grievances of the applicant. It is only thereafter, the police conducted an inquiry and registered the present FIR.

Learned counsel for the petitioner further submits that petitioner was not aware about the marriage of co-accused Gaurav when she filed the aforesaid two successive petitions for protection on the basis of the live-in-relationship as she has filed separate affidavit in both the petitions.

Learned counsel further submits that the petitioner was also not aware about concealing the factum of filing of the first petition in the second petition as again it was co-accused Gaurav, who had engaged the counsel and had filed the petition.

Though, in view of the judicial pronouncements by the Hon'ble Supreme Court, this Court, while exercising the powers under Section 482 Cr.P.C. or Articles 226/227 of the Constitution, is bound to protect the life and liberty of the citizens, however, the Court is also the guardian of the minor girls or the girls of tender age, who may be enticed away by a male person due to infatuation of tender age and without knowing the consequences of filing a petition based on live-in-relationship.

It is now well known that the protection petitions based on live in relationship are filed in a noble and calculated manner, just to create a ground of defence as parents of the girl file police case of rape and abduction.

Needless to say, at the age, around 18 years, the primary concern of the parents of a girl is to educate her properly and to build up her professional career and such decisions are consciously taken by the parents, whereas the protection petitions, based on live-in-relationship, are filed by young persons based on emotional decisions taken from heart.

It is worth noticing here that the Parliament, vide Constitution (86th Amendment) Act, 2002, has incorporated Article 51A(k) in the Fundamental Duties of the Citizens, which reads as under:

“who is a parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen years.”

Though, the fundamental duties are not enforceable, however, the Court cannot ignore that an equilibrium is to be maintained between the fundamental rights and fundamental duties of the citizens.

Therefore, it is obvious for the Court that before disposing of any petition based on live-in-relationship, where the girl is either minor or of tender age around 18 years, notice be given to the parents of the girl or direction be issued to the Illaqua Magistrate to record the statement of the girl to find out whether she has understood the consequence of filing the protection petition and whether she is capable of taking independent decision.

Notice of motion.

Mr. Joginder Pal Ratra, DAG, Punjab, who is also appearing through video conferencing, accepts notice on behalf of the respondent-State and submits that after conducting a proper inquiry, the present FIR was registered as it was found that a fraud is played.

Learned State counsel further submits that since the mother of the petitioner has stated that petitioner was enticed away by co-accused Gaurav, the petitioner may be directed join investigation.”

3. Learned counsel for the petitioner submits that in compliance of the aforesaid order, the petitioner has joined the investigation and is no more required for further investigation. He further submits that co-accused Gaurav has been arrested.

4. The Judicial Magistrate Ist Class, Gurdaspur has also submitted a report stating therein that on 06.08.2021 complainant Rozi appeared before her and made a statement that Gaurav son of Chandi Ram had enticed away her daughter Sujata despite the fact that he was already married with Neeshu daughter of Prabhdev on 30.11.2020. The Court has also recorded the

statement of petitioner Sujata who has stated that she was not aware of the fact that Gaurav was previously married.

5. Learned State counsel, on instructions from the Investigating Officer, has not disputed the factual position and submits that the petitioner is no more required for further investigation.

6. In view of the above, this petition is allowed and the interim bail granted to the petitioner vide order dated 27.07.2021 is made absolute subject to the conditions envisaged under Section 438 (2) Cr.P.C.

31.08.2021
Jiten Sharma

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No