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

CRWP-8828-2021

Date of decision : 16.09.2021

Roji and another

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Amit Sharma, Advocate for the petitioners.

(Through Video Conferencing)

VIKAS BAHL, J. (ORAL)

Prayer in the present Criminal Writ Petition filed under Article 226 of the Constitution of India is for issuance of a writ in the nature of mandamus directing respondent No.2 to protect the life and liberty of the petitioners.

Learned counsel for the petitioners has submitted that petitioner No.1-Roji is more than 18 years of age as her date of birth is 24.03.2003 which is apparent from her Aadhaar Card (Annexure P-1) and petitioner No.2-Gurbhinder Singh is more than 19 years of age as his date of birth is 12.01.2002 which is apparent from his Aadhaar Card (Annexure P-2). Although, petitioner No.2 is major but is not of marriageable age. Both the petitioners have married on 01.09.2021 which

is apparent from Marriage Photographs (Annexure P-3), as per their free will and without any coercion. It has further been stated that the petitioners have also given a detailed representation dated 11.09.2021 (Annexure P-4) to respondent No.2 with regard to the same.

On a pointed query put by this Court to the learned counsel for the petitioners that although petitioner No.2 is major but is not of marriageable age and as to whether in such circumstances, the petitioners are entitled to seek the relief of protection of their life and liberty, learned counsel for the petitioners has relied upon the judgment passed by the Coordinate Bench of this Court in CRWP-4762-2021 titled **Pooja and another Vs. State of Haryana and others, decided on 25.05.2021,** to submit that petitioner No.2, in that case also, was although major but not of marriageable age and yet the petition was entertained. Relevant portion of the said judgment dated 25.05.2021 passed by the Coordinate Bench is reproduced hereinbelow:-

“Pooja daughter of Hanuman (petitioner No.1) claims to be 20 years and Sukhwinder Singh son of Kaval Singh (petitioner No.2) claims to be 20 years of age. They have pleaded that they have married against the wishes of respondents No.4 to 6 and seek protection to their life and liberty. They apprehend danger from respondents No.4 to 6. They have placed on record marriage certificate, Annexure P-3 claiming that they married on 19.05.2021. The petitioners have submitted a representation, Annexure P-4 to respondent No.2-Senior Superintendent of Police, Sirsa.

Learned counsel for the petitioners has relied upon

the judgment of this Court passed by a Division Bench in LPA No.385 of 2016 titled as Elaichi and another Vs. State of Punjab and others, decided on 16.05.2016 and a judgment of Co-ordinate Bench of this Court passed in CWP No.17069 of 2019 titled as Kawaljeet Kaur and another Vs. State of Punjab and others, decided on 24.06.2019 to submit that even though boy was not of marriageable age, this Court had entertained their petitions for protection of their life and liberty.

Without entering upon an exercise to evaluate the evidentiary value of the documents placed on the file, I dispose of the petition with directions to respondent No.2 to decide the representation of the petitioners, Annexure P-4 and grant them protection, if any threat to their life and liberty is perceived.

It is clarified that this order shall not be treated as a stamp of this Court for the marriage of the petitioners.”

Further, reliance has also been placed upon the judgment dated 24.06.2019 passed in **CWP-17069-2019** titled **Kawaljeet Kaur and another Versus State of Punjab and others**, and also on the judgment dated 16.05.2016 passed by the Division Bench of this Court in **LPA-385-2016**, titled **Elaichi and another Versus State of Punjab and others**.

Notice of motion to respondent Nos.1 and 2 only.

On advance notice, Mr. Saurav Khurana, DAG, Punjab, appears and accepts notice on behalf of respondent Nos.1 and 2 and on a specific query put by this Court, he has stated that he has no objection in case, respondent No.2-Commissioner of Police, looks into the representation dated 11.09.2021 (Annexure P-4) and takes appropriate

action in accordance with law.

After considering the abovesaid facts and without commenting upon the legality of the marriage and expressing any opinion on merits of the case, the present Criminal Writ Petition is disposed of with direction to respondent No.2 to look into the representation dated 11.09.2021 (Annexure P-4) and after considering the threat perception to the petitioners, respondent No.2 will take appropriate action in accordance with law.

It is, however, clarified that this order shall not debar the State from proceeding against the petitioners, if involved in any case.

16.09.2021

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No