

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRWP-8763-2022(O&M)

Date of decision : 12.09.2022

Shivani Arya and another

... Petitioners

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Abhishek K.Kathpal, Advocate
for the petitioners.

Mr.Tarun Aggarwal, Sr.DAG, Punjab.

VIKAS BAHL, J.(ORAL)

CRM-W-1236-2022

This is an application filed for grant of leave under Rule 3-A(i) of Chapter VI, Part B, Volume V of Punjab and Haryana High Court Rules and Orders to file the present petition.

In view of averments made in the application, the same is allowed and leave is granted under the aforesaid Rules and Orders to file the present petition.

CRWP-8763-2022

The present criminal writ petition has been filed under Article 226 of the Constitution of India for directing the official respondents to protect the life and liberty of the petitioners.

The petitioners are living in “Live in Relationship”. It has been stated that the date of birth of petitioner no.1 is 18.03.2000 as per the

Aadhar Card (Annexure P-1) and the date of birth of petitioner No.2 is 15.08.2004 as per the Aadhar Card (Annexure P-2). It is, thus, clear that although petitioner no.1 is of marriageable age but petitioner no.2 has not yet attained the marriageable age of 21 years. However, it is the case of the petitioners that they are unmarried and living in “*Live in Relationship*” out of their free will and without any pressure. It has further been stated that the petitioners have given a detailed representation dated 05.09.2022 (Annexure P-3) to respondent No.2- Senior Superintendent of Police, Mansa.

This Court has considered the facts as stated in the petition as well as in the accompanying annexures. This Court is fully aware of the fact that petitioner no.2 is not of marriageable age and that the petitioners, even as per their own case, have not married and are living in “*Live in Relationship*”.

The issue as to whether protection of life and liberty should be granted to a couple in a “*Live in Relationship*” is no longer *res integra*.

Reference in this regard may be made to the decision dated 09.08.2021 in CRWP-7451-2021 titled ***Tamnna and another Vs. State of Punjab and others***, in which in a similar case of “*Live in Relationship*”, this Court was pleased to direct the Senior Superintendent of Police, Patiala to look into the threat perception of the petitioners therein and pass appropriate order. Relevant portion of the order dated 09.08.2021 in CRWP-7451-2021 is reproduced hereunder:-

“Petitioners have prayed for issuance of necessary directions to the official respondents for protecting their civil/personal rights and liberties from being invaded by the private respondents.

Petitioners are living in live-in relationship.

Learned counsel for the petitioners submits that petitioner

No.1 is more than 18 years of age. Petitioner No.2 is more than 18 years of age, but he has not attained the marriageable age of 21 years.

Precisely, in the context of aforesaid relief, petitioners have approached the Senior Superintendent of Police, Patiala, District Patiala/respondent No.2 by way of representation dated 04.08.2021 (through courier).

At this stage, this Court is only concerned with lives and personal liberties of the petitioners.

Notice of motion to respondents No.1 to 3.

On the asking of the Court, Mr. Sandeep Kumar, D.A.G., Punjab accepts notice on behalf of Staterespondents No.1 to 3.

At this stage, without meaning anything on the merits of the case and without commenting upon relationship or otherwise of the petitioners, respondent No.2 is directed to look into the grievance of the petitioners for which a representation has already been filed by the petitioners on 04.08.2021. Respondent No.2 is directed to assess the threat perception of the petitioners. It is made clear that this Court has not commented upon validity of relationship or otherwise of the petitioners in any manner. Respondent No.2 would be fully empowered to look into the threat perception of the petitioners by devising his/her own mechanism and pass appropriate order on the representation dated 04.08.2021 preferably within a period of one month from the date of receipt of certified copy of this order.

Petition stands disposed of accordingly. ”

It is also relevant to mention here that Coordinate Bench of this Court had dismissed one Criminal Writ Petition bearing **CRWP-4199-2021** vide order dated 11.05.2021 where the petitioners were also in “*Live in Relationship*”. Relevant portion of the said order dated 11.05.2021 passed in **CRWP-4199-2021** is reproduced hereasunder:-

“Petitioners Gulza Kumari and Gurwinder Singh have filed the present petition stating that presently they are residing together, though, they intend to get married shortly; they are apprehending danger to their lives at hands of parents of petitioner No.1-Gulza Kumari. As a matter of fact, the petitioners

in the garb of filing the present petition are seeking seal of approval on their live-in-relationship, which is morally and socially not acceptable and no protection order in the petition can be passed. The petition stands dismissed accordingly.”

The same matter was, however, taken to Hon'ble the Supreme Court of India in Special Leave to Appeal (Criminal) No.4028 of 2021 and the Hon'ble Supreme Court of India had vide its judgment dated 04.06.2021 disposed of the same in the following terms:-

“The petitioners in both the petitions are stated to have represented to the Superintendent of Police.

The grievance is that the representation(s) has not been considered by the police.

We have gone through the representation(s). We dispose of both the petitions granting liberty to the petitioners to supplement their representation to the Superintendent of Police.

Needless to state that since it concerns life and liberty, the Superintendent of Police is required to act expeditiously in accordance with law, including the grant of any protection to the petitioners in view of the apprehensions/threats, uninfluenced by the observations of the High Court.

The Special Leave Petitions stand disposed of.

Pending applications shall also stand disposed of.”

The aspect of life and liberty was considered to be a paramount importance and thus, Superintendent of Police in the said case was directed to act expeditiously in accordance with law, including the grant of any protection to the petitioners therein.

Neither this Court wishes to go into the merits of the present case nor wants to comment upon the relationship of the petitioners but the only concern is with regard to their life and liberty, protection of which is of paramount consideration.

Notice of motion to respondent Nos.1 to 3 only.

On advance notice, Mr. Tarun Aggarwal, Sr.DAG, Punjab,

appears and accepts notice on behalf of respondent nos.1 to 3. He has stated that he has no objection in case, respondent no.2-Senior Superintendent of Police, Mansa, looks into the representation dated 05.09.2022 (Annexure P-3) with a limited prayer for only protection of life and liberty of the petitioners and takes appropriate action, in accordance with law.

After considering the above-said facts and circumstances and without commenting upon the legality of the relationship or expressing any opinion on merits of the case, the present criminal writ petition is disposed of with a direction to respondent no.2 to look into the representation (Annexure P-3) and to assess the threat perception to the petitioners and after considering the same, respondent no.2 shall 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.

(VIKAS BAHL)
JUDGE

September 12, 2022

Davinder Kumar

Whether speaking / reasoned

Yes/No

Whether reportable

Yes/No