

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

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**CRWP-10713-2022 (O&M)
Date of decision: 16.11.2022**

AFSANA AND ANOTHER

....Petitioners

Versus

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Sahil Goel, Advocate
for the petitioners.

AMAN CHAUDHARY. J.

Present petition has been filed under Article 226/227 of the Constitution of India for issuance of writ in the nature of mandamus directing the respondent Nos.2 and 3 for protection of life and liberty of the petitioners at the behest of respondent Nos.4 to 10.

Learned counsel for the petitioners while referring to para 2 of the petition submits that the petitioners are known to each other and are in a friendly relationship since past 2 years on having developed liking for each other and want to live together in a de facto relationship. Both the petitioners are presently residing with the parents of petitioner No.2. Learned counsel submits that the petitioner are being threatened at the hands of respondent Nos.4 to 10 being parents and relatives of petitioner No.1. It is stated in para 8 that an email dated 20.10.2022, Annexure P-3 had been sent to respondent No.2 requesting to provide protection to them from the aforesaid family members.

Learned counsel relies on the order passed by this Court in CRWP-3791-2021 dated 22.06.2021, Annexure P-4 passed by this Court, wherein the petitioners who were two unmarried girls, in a live-in-relationship and living with

each other for past few years had approached this Court seeking protection of their life and liberty as enshrined under Article 21 of the Constitution of India. This Court had disposed of the petition with a direction to consider the representation and assess threat perception apprehended by them.

Learned counsel for the petitioner states that the petitioner will be satisfied in case Superintendent of Police, Kaithal i.e. respondent No.2 is directed to look into the representation dated 20.10.2022 (Annexure P-3), made to him by them in this regard and take appropriate action on the same.

Notice of motion.

Mr. Tanuj Sharma, AAG Haryana accepts notice on behalf of respondent-State and has no objection for acceptance of the limited prayer being made by the petitioners.

Hon'ble The Supreme Court of India in the case of **National Legal Services Authority Vs. Union of India and others**, (2014) 5 SCC 438, had held that self-determination of gender is an integral part of personal autonomy and self-expression falls within the realm of personal liberty guaranteed under Article 21 of the Constitution of India.

The issue as to whether the marriage is must for providing protection to a couple 'live-in relationship', keeping in view the fundamental rights ensured under Article 21 of the Constitution of India, has been considered by this Court in **CRWP-4521-2021** titled as “**Pardeep Singh and another vs. State of Haryana and others**” decided on 18.5.2021; **CRWP-8081-2021** titled as “**Goutam Kumar and another vs. State of Punjab and others**” decided on 26.8.2021 and also the Division Benches in **LPA 769-2021** titled as “**Ishrat Bano and another vs. State of Punjab and others**” decided on 3.9.2021 and in **LPA 1678-2014** titled as

“Rajwinder Kaur and another vs. State of Punjab and others” decided on 9.10.2014.

This Court in **Pardeep Singh's case (supra)** while granting protection to the petitioners therein where they were residing in live-in relationship, has held as under:

“The Constitution of India is the Supreme Law of the land. Right to life and liberty is enshrined therein and is treated as a basic feature. The said right includes the right of an individual to full development of his/her potential in accordance with his/her choice and wish and for such purpose, he/she is entitled to choose a partner of his/her choice. The individual also has the right to formalize the relationship with the partner through marriage or to adopt the non-formal approach of a live-in relationship. The concept of live-in-relationships has crept into our society from western nations and initially, found acceptance in the metropolitan cities, probably because, individuals felt that formalization of a relationship through marriage was not necessary for complete fulfillment. Education played a great role in development of this concept. Slowly, the concept has percolated into small towns and villages also as is evident from this petition. This shows that social acceptance for live-in-relationships is on the increase. In law, such a relationship is not prohibited nor does it amount to commission of any offence and thus, in my considered view such persons are entitled to equal protection of laws as any other citizen of the country. The law postulates that the life and liberty of every individual is precious and must be protected irrespective of individual views.

Let us examine the issue from another view-point. The Constitutional Courts grant protection to couples, who have married against the wishes of their respective parents. They seek protection of life and liberty from their parents and family

members, who disapprove of the alliance. An identical situation exists where the couple has entered into a live-in-relationship. The only difference is that the relationship is not universally accepted. Would that make any difference ? In my considered opinion, it would not. The couple fears for their safety from relatives in both situations and not from the society. They are thus, entitled to the same relief. No citizen can be permitted to take law in his own hands in a country governed by Rule of Law.

The petition is accordingly, disposed of with direction to respondent No.2 to consider the representation dated 9.5.2021 (Annexure P3) and to provide appropriate protection, if found necessary. It shall be ensured that no harm comes either to the lives or liberty of the petitioners.”

In **Rajwinder Kaur's case (supra)**, the Division Bench has held as under:-

“We have no reason to doubt that the fundamental right to life and liberty is so sacrosanct and stands at such a high pedestal that it must be protected even in the absence of an incident like solemnization of a valid marriage between the parties. While the appellants might be required to satisfy an appropriate forum regarding the validity of their marriage but even in the absence of such validation, the State is obligated to protect their life and liberty. We, thus, modify the order passed by the learned Single Judge and dispose of this appeal with a direction to the respondent-police-authorities to ensure that no harm is caused by anyone to the life and liberty of the appellants. The police-authorities shall, however, verify the age of the appellants and if any further remedial action is required to be taken on such verification, the same shall be taken forthwith.”

Thus, in view of the law laid down in **Pardeep Singh's case (supra)**

and **Rajwinder Kaur's case (supra)**, this Court is of the view that even in case the petitioners are in a “Live-in Relationship”, the protection qua the life and liberty of the petitioners being sacrosanct stands at the highest pedestal. Thus, the petitioners are entitled to be granted protection of life and liberty.

Resultantly, in view of the above prayer made by the petitioners and without commenting upon the aspect of the nature of relationship between the petitioners or expressing any opinion on merits of the case, the present petition is disposed of with a direction to respondent No.2-Superintendent of Police, Kaithal to look into the representation dated 20.10.2022 (Annexure P-3) and if any threat perception is found, to take appropriate action in accordance with law.

It is however, made clear that this order shall not preclude the authorities to proceed against the petitioners, in case, they are found involved in any other civil or criminal proceedings, instituted/ pending against them.

(AMAN CHAUDHARY)
JUDGE

November 16, 2022

S.Sharma(syr)

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>