

CRWP-5438-2023

2023:PHHC:101325

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

211

CRWP-5438-2023

Date of Decision: 07.08.2023

Shubham and another

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Naveen Siwach, Advocate for
Mr. Siddhant Arora, Advocate
for the petitioners.

Mr. Manish Bansal, Sr. DAG, Haryana.

Mr. Dinesh Maurya, Advocate for respondent No.5.

ANOOP CHITKARA, J.

Fearing for their lives and liberty at the hands of the private respondents, the petitioners have come up before this Court seeking protection through the State, by invoking their fundamental rights of life guaranteed under Article 21 of the Constitution of India.

2. As per memo of parties, petitioner No.1 is stated to be major. However, petitioner No.2 (Name withheld) is a minor girl.

3. At the outset, petitioners' counsel submits that he would be confining his prayer for protection of only petitioner No.2.

4. Counsel for the State on instructions submits that although this is the second petition which has been filed with malafide intentions and further that the second petitioner is not traceable.

5. Counsel for respondent No.5 submits that petitioner No.1 has taken away petitioner No.2, against her will.

6. Given above, as and when petitioner No.2 is traced, she be produced before the concerned Judicial Magistrate and in case the time is not suitable immediately before a Child Protection Home and after that produce her before the concerned Judicial

Magistrate. The concerned Judicial Magistrate shall interact with her and it is the

concerned Magistrate's discretion whether to record her statement under Section 164 Cr.P.C or to proceed without that.

7. Learned Judicial Magistrate will either send the minor to Child Protection Home and to her parents as per the result of the interaction with her. The identity of the place where petitioners are staying shall not be revealed to the private respondents. However, it is clarified that as and when the girl-petitioner No.2 is produced before the judicial Magistrate, her parents are permitted to interact with her.

8. Petitioners' counsel to take instructions qua the whereabouts of petitioner No.2 and inform the state counsel.

9. **It is made clear that the minor petitioner's custody shall NOT be handed over to the adult petitioner No.1.** It is clarified that there is no adjudication on merits. It is also clarified that this order is not a blanket bail in any FIR for the petitioners. It is further clarified that this order shall not come in the way if the interrogation of petitioner No.1 is required in any cognizable case. It shall also be open for petitioner No.1 to approach this Court again in case of any fresh threat perception.

10. **This order shall eclipse after fifteen days from today.**

11. *There would be no need for a certified copy of this order, and any Advocate for the Petitioner and State can download this order and other relevant particulars from the official web page of this court and attest it to be a true copy. The concerned officer can also verify its authenticity and may download and use the downloaded copy for immediate use.*

Petition is disposed of in the terms mentioned above. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

07.08.2023
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Whether speaking/reasoned: Yes
Whether reportable: No.