

117 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRWP No.8041 of 2023
Date of Decision: 17.08.2023

Pooja and another ...Petitioners

Versus

State of Punjab and others ...Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Japsehaj Singh, Advocate
for the petitioners.

Mr. Shiva Khurmi, AAG, Punjab.

ANOOP CHITKARA, J.

Two young adult females who declare their fondness for each other and have been staying together in a live-in relationship for the last four years 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. Notices served upon the official respondents through the State's counsel. Given the nature of the order that this Court proposes to pass, neither the response of official respondents nor the issuance of notices to the private respondents is required.

3. It remains undisputed that the petitioners are above 18 years of age; as such, they are adults and have all the legal rights to live as they desire, so long it does not violate any law. Their claim of fondness for each other and living together in a live-in relationship prima facie does not violate any provision of law in force. Love, attraction, and fondness have no boundaries, and not even the boundary of gender. However, some segments of societies cannot keep pace with the boldness of expression, courage not to be subservient, and the rapidly changing ethos and lifestyles that Gen-Z and millennials might like to embrace or follow, including openly proclaiming their attraction towards persons of similar gender. Article 21 of the Constitution of India does not cease to apply when people of the same gender decide to live together. Every person in the territory of India has an inherent and indefeasible fundamental right to life flowing from Article 21 of India's constitution, and the State is duty-bound to protect life.

4. In Mohd Arif @ Ashfaq v. Registrar, Supreme Court of India, 2022:INSC:1154 [Para

17] (2014) 9 SCC 737, the Constitutional bench of Hon'ble Supreme Court holds,

[17]. As the determination of this case has to do with the fundamental right to life, which, among all fundamental rights, is the most precious to all human beings, we need to delve into Article 21 which reads as follows:

"21. Protection of life and personal liberty.-No person shall be deprived of his life or personal liberty except according to procedure established by law."

[18]. This Article has its origin in nothing less than the Magna Carta, (the 39th Article) of 1215 vintage which King John of England was forced to sign by his Barons. It is a little known fact that this original charter of liberty was faulted at the very start and did not get off the ground because of a Papal Bull issued by Pope Innocent the third declaring this charter to be void. Strangely, like Magna Carta, Art. 21 did not get off the ground for 28 years after which, unshackled, it has become the single most important fundamental right under the Constitution of India, being described as one of a holy trinity consisting of a 'golden triangle' (see *Minerva Mills v. Union of India*, 1981 1 SCR 206 at 263), and being one of two articles which cannot be eclipsed during an emergency (Article 359 as amended by the Constitution 44th Amendment).

5. If the allegations of apprehension of threat to their lives turn out to be true, it might lead to an irreversible loss. Thus, in the facts and circumstances peculiar to this case, it shall be appropriate that the concerned Superintendent of Police, SHO, or any officer to whom such powers have been delegated or have been authorized in this regard, provide appropriate protection to the petitioners and shall depute atleast two female police officials for their protection for two weeks from today. However, if the petitioners no longer require the protection, then at their request it may be discontinued even before the expiry of two weeks. After that, the concerned officers shall extend the protection on day-to-day analysis of the ground realities or upon the oral or written request of the petitioners.

6. It is clarified that there is no adjudication on merits and that this order is not a blanket bail in any FIR. It is further clarified that this order shall not come in the way if the interrogation of the petitioners is required in any cognizable case. It shall also be open for the petitioner(s) to approach this Court again in case of any fresh threat perception.

7. **This order shall eclipse after thirty days from today.**

8. *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 allowed to the extent mentioned above. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

17.08.2023
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Whether speaking/reasoned: Yes
Whether reportable: **Yes.**