

CRWP-8294-2023**2023:PHHC:109722**

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRWP-8294-2023

Date of Decision: 23.08.2023

Ajan Devi and another

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Ms. Sukhveer Kaur, Advocate
for the petitioners.

Mr. Shiva Khurmi, AAG, Punjab.

Mr. Sham Lal Saha, Advocate
for respondent No.4.

ANOOP CHITKARA, J.

Fearing for their lives and liberty at the hands of the private respondents, the petitioners who claim to have married after attaining the permissible age for marriage, against the wishes of the private respondents, have come up before this Court by invoking their fundamental rights of life guaranteed under Article 21 of the Constitution of India, seeking direction to the State to protect them.

2. Notices served upon the official respondents through the State's counsel. Given the nature of the order, this Court proposes to pass, neither the response of official respondents is required nor exists any requirement to issue notices to the private respondents.

3. Counsel appearing for respondent No.4 (father of petitioner No.1) submits that petitioner No.1 is minor and handed over photocopy of school certificate and Aadhar card of petitioner No.1. Photocopy of the said documents have also been handed over to the State counsel. As per school certificate, date of birth of petitioner No.1 is 08.02.2007.

4. Without commenting on the validity of marriage, this Court restrict the petition to protect life and liberty of petitioner.

5. Given above, 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 for one week from today. However, if the petitioner No.1 no longer require the protection, then it may be discontinued even before the expiry of one week. 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 petitioner No.1.

6. This protection is subject to the stringent condition that from the time such protection is given, petitioner No. 2 shall not go outside the boundaries of the place of their residence, except for medical necessities, to buy household necessities, and bereavements in the families of the persons who are close to them. However, petitioner(s) shall be at liberty to shift the residence(s) and if the new place falls within the district, then the protection shall be extended to such place. This restriction saves petitioner no.2 from apprehended risk and ensures that the protection is not flaunted.

7. Learned counsel for the petitioners to direct the petitioners to attend the phone call(s) of the Investigator. As far as the petitioner No.1 is concerned, who as per her parents is a minor girl as soon as the Investigator contacts her, he shall produce her to the nearest 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. **It is clarified that it shall be permissible for parents of petitioner No.1 to interact with their daughter for 15 minutes when the girl is produced before the Magistrate for recording of the statement, in the presence of female police official.**

8. If the version of respondent No.4 (father of petitioner No.1) found correct after verification by the concerned Magistrate in that case, 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.

9. **It is made clear that in case, petitioner No.1 found to be minor, her custody shall NOT be handed over the adult petitioner.** 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.2 is required in any cognizable case. It shall also be open for petitioner No.2 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 allowed to the extent mentioned above. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

23.08.2023
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Whether speaking/reasoned: Yes

Whether reportable: No.