

CRWP-12311-2023

120

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRWP-12311-2023

Decided on:-22.12.2023

Sonu Kumar and another

....Petitioners..

vs.

State of Punjab and others

....Respondents.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. R.K. Kachura, Advocate,
for the petitioners.

HARKESH MANUJA J. (Oral)

1. Present criminal writ petition under Article 226 of the Constitution of India has been filed by the petitioners praying for protection to their life and liberty at the hands of respondents No.4 to 7.

2. Upon advance notice, Mr. Sandeep Kumar, DAG, Punjab, appears on behalf of respondents No.1 to 3. Requisite copies of the petition have already been supplied to the respondents-State by the learned counsel for the petitioners.

3. One of the petitioners has not attained the marriageable age. Petitioner No.1 claims to be about 21 years of age born on 14.01.2002 whereas petitioner No.2 is a minor aged 17 years born on 01.01.2007. It is stated that the petitioners are living together and want to marry each other against the wishes of respondents No.4 to 7. Reliance is placed upon the decision by a coordinate Bench of this Court, passed in CRM-M-38667-2016 titled *Baljeet Kaur and another vs. State of Punjab and others*,

2017(3) HLR 107.

4. Apprehending threat to their life and liberty, petitioners have already approached respondent No.2 by way of representation dated 18.12.2023 (Annexure P-3), but to no avail.

5. Article 21 of the Constitution of India stipulates protection of life and liberty to every citizen and that no person shall be deprived of his life and personal liberty except in accordance with procedure established by law. As per the Constitutional mandate it is the bounden duty of the State to protect the life and liberty of every citizen. Mere fact that the petitioners are not of marriageable age or that petitioner No.2 is still a minor, would not deprive the petitioners of their fundamental rights as envisaged in the Constitution, being citizens of India.

6. A Division Bench of this Court in **LPA-769-2021** titled ***Ishrat Bano and another vs. State of Punjab and others***, decided on 03.09.2021 held as under:-

“The aspect which we are considering and dealing with is with regard to the threat to the life and liberty to the appellants as has been asserted by them. No doubt, in case a criminal case is registered against any of the parties, the law should take its own course, however, the life and liberty of any person who has approached the Court with such a grievance need to be taken care of and the protection be provided as permissible in law. No person can be permitted or allowed to take law in his hands and therefore, keeping in view the said aspect, we dispose of the present appeal by observing that the Senior Superintendent of Police, Maler Kotla, shall take into consideration the representation dated 17.08.2021 (Annexure P-5) submitted by the appellants and if some substance is found therein, take appropriate steps in accordance with law to ensure that the life and liberty is not jeopardized of the appellants at the hands of the private respondents. This direction shall not be construed in any manner to restrain the official respondents to proceed against the appellants in case there is some criminal case registered against them.

The law shall take its own course and it shall be open to the authorities/investigating agency to proceed against the appellants, if required in law and in accordance thereto.”

7. A similar view was taken in ***Khuspreet Singh and another vs. State of Punjab and others***, 2022 (3) RCR (Civil) 988, and in ***Akash and another vs. State of Punjab and others***, 2023 (3) RCR (Civil) 372.

8. Without expressing any opinion on the merits of the matter or commenting thereon and in particular the legality of the alleged relationship, the present petition is disposed of with a direction to the Senior Superintendent of Police, Fazilka-respondent No.2 to consider the aforesaid representation dated 18.12.2023 (Annexure P-3) made by the petitioners and in case there is any threat perception to the petitioners at the hands of private respondents, to act in accordance with law and if need be, to provide them interim protection.

9. Further considering the aforesaid circumstances and the fact that petitioner No.2 is a minor and has approached the Court, it becomes incumbent upon the Court in its capacity as *parens patriae* to examine what is best in the interest of the minor and it is deemed appropriate to direct respondent No.2 as well as the Child Welfare Committee to take all steps detailed in the directions contained in ***Khuspreet Singh's case*** (supra), noticed above, in the present case as well.

10. The petitioners are directed to appear before the Senior Superintendent of Police, Fazilka within a period of 3 days from receipt of a copy of this order, failing which respondent No.2 shall depute a Child Welfare Police Officer to produce the minor before the Child Welfare Committee within a period of one week thereafter. The Child Welfare Committee constituted under the Juvenile Justice (Care and Protection of Children) Act 2015, shall send a compliance report to this Court.

11. Registry of this Court is directed to send a copy of this order along with the petition and annexures to the respondent No.2-Senior Superintendent of Police, Fazilka, as well as to the concerned Child Welfare Committee of Punjab, for necessary compliance.

12. A compliance report be furnished by the Child Welfare Committee to this Court within a period of two months from the receipt of a copy of this order.

13. It is made clear that this order shall not be taken to validate the alleged relationship between the petitioners or protect them from legal action for violation of law, if any, committed by them.

14. The petition is disposed of.

22.12.2023
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(HARKESH MANUJA)
JUDGE

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