

MANISHA BEING MINOR THROUGH GURDEEP AND ANR.

.....Petitioners

Versus

STATE OF HARYANA AND OTHERS

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Karan Singh, Advocate for the petitioner.
Mr. Chetan Sharma, DAG, Haryana.
Mr. Naresh Kumar Garg, Advocate for
respondents No.4 to 8.

HARKESH MANUJA, J. (ORAL)

1. Present criminal writ petition under Article 226/227 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 8.
2. Upon advance notice, Mr. Siddharth Sandhu, AAG, 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. Petitioner No.1 claims to be about 17 years of age whereas petitioner No.2 is major aged about 19 years. Therefore, it is not denied by the learned counsel for the petitioners that petitioners have not attained the marriageable age.
4. It is stated that the petitioners are living together and want to marry each other against the wishes of respondents No.4 to 8. Reliance in this regard is placed upon the decision rendered by a coordinate Bench of this Court, passed in **CRM-M-38667-2016** titled ***Baljeet Kaur and another vs. State of Punjab and others.***

4. Apprehending threat to their life and liberty, petitioners have already approached respondent No.2 by way of representation dated 15.04.2024 (Annexure P-3), but to no avail. Though, in the present case, the parties appeared before the Mediation and Conciliation Centre of this Court so as to interact with each other. Petitioner No.1 has submitted that she does not wish to accompany her parents.

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.1 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, Sirsa-respondent No.2 to consider the aforesaid representation dated 15.04.2024 (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.1 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. Chandigarh Police is directed to take petitioner No.1 to Ashiana Children's Home, Sector 16, Panchkula, Haryana, where, she is to be kept till the time Superintendent of Police, Sirsa comes and

receives her for her further committal into Children’s Home, Sirsa till she attains the age of majority and upon attaining majority she shall be at liberty to chose where she wants to live. Further, the Superintendent of Police, Sirsa 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 ensure the well-being of petitioner No.1 in the Children’s Home Sirsa.

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, Sirsa, as well as to the concerned Child Welfare Committee of Sirsa, Haryana, for necessary compliance.

12. A compliance report be furnished by the Child Welfare Committee, Sirsa, Haryana 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.

25.04.2024
Tejwinder

(HARKESH MANUJA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>