



**122 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRWP-3354-2026

Date of decision: 25.03.2026

SAJAN MASIH AND ANOTHER

...PETITIONERS

V/S

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUBHAS MEHLA

Present: None for the petitioners.

SUBHAS MEHLA, J. (ORAL)

1. Prayer in the instant petition filed under Article 226 of the Constitution of India, is for issuance of writ in the nature of mandamus directing respondent Nos.2 and 3 to protect the lives and liberty of the petitioners at the hands of respondent Nos.4 to 8 on account of the fact that the petitioners have started residing together in live-in-relationship.

2. There is no representation on behalf of the petitioners. Perusal of the paper-book reveals that petitioner No.1 is 22 years of age and petitioner No.2 is aged 17 years and 03 months, and are residing together in a live-in relationship, but they apprehend threat to their life and liberty from the private respondents. In this regard, a representation dated 23.03.2026 (Annexure P-3), was also moved before respondent No.2-Senior Superintendent of Police, Gurdaspur, seeking police protection.

3. Notice of motion.

4. Mr. Anup Singh, AAG, Punjab, who is present in the Court, accepts notice on behalf of respondent-State and submits that both the petitioners are living in live-in-relationship, however, petitioner No.2 has not attained the age of majority. A child cannot have a live-in-relationship as it



would be an act not only immoral but also illegal. There are several conditions for live-in-relation to be treated as relation in nature of marriage. In case, this is permitted, this would amount to putting premium on an illegal activity and thus, would not be in the interest of our society. Such kind of relationship should not be protected with the umbrella of protection granted by this Court. There is no dispute to the proposition that Article 21 of the Constitution of India is sacrosanct and it is imperative upon the State to take adequate measures to protect the life and liberty of each person. However, there are statutory safeguards required under the statutory scheme to protect the interest of a minor and once such a fact comes to the notice of the Court, it becomes incumbent upon the Court in its capacity as *parens patriae* to examine what is in the best interest of the minor.

5. Heard.

6. Petitioners are in live-in-relationship, however, one of the partner i.e. petitioner No.2 is admittedly below the age of 18 years. Petitioners seek protection of life and liberty under Article 21 of the Constitution of India, citing threats from the private respondents due to the said live-in-relationship. Upon consideration, it is clear that the girl/petitioner No.2 is a minor.

7. Albeit, a live-in-relationship in the nature of marriage has attained sanction of law by the catena of judgments of the Hon'ble Apex Court. However, there are certain pre-requisite conditions required for a relation to be a lawful live-in-relationship. The Hon'ble Apex Court in the cases titled as "***D. Velusamy vs. D. Patchaiammal, Criminal Appeal Nos.2028-2029 of 2010***" and "***Indra Sarma Vs. V.K.V. Sarma, 2014 AIR Supreme Court 309***" has laid down the conditions for a relationship to be a valid relationship in the nature

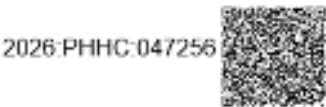


of marriage. One of the condition is that “**they must be of legal age to marry**”.

8. Moreover, in *Independent Thought v. Union of India, (2017) 10 SCC 800*, the Hon’ble Supreme Court unequivocally held that **Exception 2 to Section 375 IPC**, which allowed marital intercourse with a wife above the age of 15 years, is unconstitutional, and the age of consent in all cases is 18 years, even within marriage. Further, under the **Prohibition of Child Marriage Act, 2006**, the minimum legal age for a girl to marry is 18 years; **Protection of Children from Sexual Offences (POCSO) Act, 2012**, all sexual activity with a person below 18 is **statutory rape**, regardless of consent or marital status; **Juvenile Justice (Care and Protection of Children) Act, 2015**, every child in need of care and protection must be safeguarded from abuse, exploitation and neglect. These **special laws are secular, welfare-centric, and override personal laws**. They reflect the compelling state interest in protecting children, and legislative intent to criminalize child marriage and sexual acts with minors, even under the guise of marriage.

9. In the light of aforesaid discussion, this Court is not inclined to grant protection to a couple of live-in-relationship, where one of the partner is minor as granting the same would defeat the very purpose of the aforesaid beneficial statutes. However, this Court is giving the following directions in the light of the directions laid down in case of **‘P..... Minor through Vikram vs. State of Haryana and others’**, CRWP-2139-2022 (O & M):

(i) Concerned SSP is directed to take cognizance on the representation (Annexure P-3), made by the petitioners and shall thereafter produce petitioner No.2 before the Child Welfare Committee constituted under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015, within a period of one week.



- (ii) *Respective committee shall conduct inquiry contemplated under Section 36 of Juvenile Justice (Care and Protection of Children) Act, 2015 and pass an appropriate order by associating all the stakeholders to ensure that the objects of the Juvenile Justice Act are well served.*
- (iii) *The Child Welfare Committee shall take appropriate decisions with respect to the boarding and lodging of the minor and also to conduct enquiry on all issues relating to and affecting safety and well-being of the child/minor.*
- (iv) *During the pendency of such adjudication and passing of orders as contemplated under Section 37 of the Juvenile Justice (Care and Protection of Children) Act 2015, the committee shall also take appropriate interim/decisions as regards placement of a child/custody of the child in need of care and protection.*
- (v) *The concerned SSPs/SPs shall also take appropriate steps as warranted by law against the threat perception to the petitioners and to ensure that the petitioners are protected from any physical harm at the instance of the respondents in respective cases. However, this will not create any impediment in taking action against petitioner No.1 as per law, if he is found to have committed any offence.*
- (vi) *The Child Welfare Committee constituted under the Juvenile Justice (Care and Protection of Children) Act 2015, shall send a compliance report to this Court.*

- 10. Disposed of accordingly.
- 11. Registry is directed to send the copy of order along with petition and annexures to the concerned SSP/SP for necessary compliance.

March 25, 2026
manisha

(SUBHAS MEHLA)
JUDGE

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|------|---------------------------|--------|
| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |