
(2020) 11 P&H CK 0103

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous Petition (M) No. 38132 Of 2020

Akhilesh @ Akhil

APPELLANT

Vs

State Of Punjab

RESPONDENT

Date of Decision : 19-11-2020

Acts Referred:

Indian Penal Code, 1860 — Section 363, 366A

Citation : (2020) 11 P&H CK 0103

Hon'ble Judges : Arvind Singh Sangwan, J

Bench : Single Bench

Advocate : C. S. Rana, Joginder Pal Ratra

Judgement

Prayer in this petition is for grant of anticipatory bail to the petitioner in FIR No. 128 dated 18.08.2020, registered under Sections 363, 366A of the IPC

at Police Station Khanna City-2, District Ludhiana.

Learned counsel for the petitioner submits that petitioner Akhilesh @ Akhil has filed a criminal writ petition, bearing CRWP-6856-2020, along with

Jyoti, praying for grant of protection to their life and liberty.

The court file of the criminal writ petition was summoned and as per its memorandum of parties, said Jyoti d/o Firtu Ram is stated to be 17 years of

age and the present petitioner s/o Sumer has filed the said petition with the submission that both of them are in live-in-relationship. It is further stated in

the said petition that date of birth of Jyoti is 20.08.2003, thus, on the date of filing the said petition i.e. 03.09.2020, she was of the age of 17 years and

14 days.

Along with aforesaid petition, a representation dated 01.09.2020 was also annexed, in which Jyoti had stated that her parents have love and affection

for their sons and she was ignored by her parents, therefore, she decided to live with her friend Akhilesh and on that account, she was apprehending

that her parents can harass them and disturb the peace of their mind. The said petition was disposed of on 07.09.2020 by passing the following order:

â??The Court has been convened through video conferencing due to Covid-19 pandemic.

Jyoti daughter of Firtu Ram (petitioner No.1) claims to be 17 years and Akhilesh son of Sumer (petitioner No.2) claims to be 21 years of age. They

have pleaded that they are in live-in-relationship against the wishes of respondents No.3 to 7 and seek protection of their life and liberty. They

apprehend danger from respondents No.3 to 7. The petitioners have submitted a representation (Annexure P-3) to respondent No.2- Commissioner of

Police, Ludhiana.

Learned counsel for the petitioners has relied upon a judgment of this Court in CWP No.31834 of 2019 titled as

â??Megha and another vs. State of Haryana and othersâ??

decided on 04.11.2019 and submitted that this Court had entertained petition for protection of couples in live-in relationship.

Without entering upon an exercise to evaluate the evidentiary value of the documents placed on the file, the petition is disposed of with direction to

respondent No.2 to decide the representation of the petitioners, Annexure P-3 and grant them protection, if any threat to their life and liberty is

perceived. It is made clear that this order shall not be taken to protect the petitioners from legal action for violation of law, if any, committed by

them.â??

Learned counsel for the petitioner further submits that the present FIR has been registered prior to filing of the said criminal writ petition i.e. on

18.08.2020.

Learned State counsel has raised following objections that:

(a) in CRWP-6856-2020, neither the registration of the present FIR is disclosed nor any apprehension of Jyoti, as per the said representation, is

apparent on record.

(b) Jyoti is admittedly aged about 17 years and is a minor, therefore, her parents have got this FIR registered as Jyoti and petitioner Akhilesh @ Akhil

are the first cousins as their fathers are real brothers, hence, the petitioner has concealed yet another fact in the said CRWP that they fall in the

prohibited spinda under the Hindu Marriage Act and cannot perform marriage with each other.

(c) Once the petitioner and Jyoti are prohibited from performing marriage with each other, there is no question of their being in any live-in-relationship, which is per se immoral and not acceptable in the society.

After hearing learned counsel for the parties, I find that in the present petition also, the petitioner has not disclosed about the fact that he is first cousin

of Jyoti and, therefore, the submission in the present petition that as and when she attains the age of 18 years, they will perform marriage is also per se illegal.

Faced with this, learned counsel for the petitioner seeks some time to address arguments.

Adjourned to 11.01.2021.