
(2023) 01 P&H CK 0040

In the Punjab And Haryana At Chandigarh

Case No : Criminal Writ Petition No. 307 Of 2023

Sagar Singh And Another

APPELLANT

Vs

State Of Punjab And Others

RESPONDENT

Date of Decision : 13-01-2023

Acts Referred:

Constitution Of India, 1950 — Article 21
Code Of Criminal Procedure, 1973 — Section 164

Citation : (2023) 01 P&H CK 0040

Hon'ble Judges : Anoop Chitkara, J

Bench : Single Bench

Advocate : N.P.S Hira, Harsimar Singh Sitta

Final Decision : Allowed

Judgement

Anoop Chitkara, J

1. Fearing for their lives and liberty at the hands of the private respondents, the petitioners have come up before this Court seeking protection through the State, by invoking their fundamental rights of life guaranteed under Article 21 of the Constitution of India.

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. As per memo of parties, petitioner No.1 is stated to be major. However, petitioner No.2 (Name withheld) is a minor girl.

4. 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 petitioner No.1 no longer requires 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 petitioner No.1.

5. This protection is subject to the stringent condition that from the time such protection is given, petitioner No. 1 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.1 from apprehended risk and ensures that the protection is not flaunted.

6. As far as the petitioner No.2 is concerned, being 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.

7. Learned Judicial Magistrate will either send the minor to Child Protection Home or 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.

8. 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.1 is required in any cognizable case. It shall also be open for petitioner No.1 to approach this Court again in case of any fresh threat perception.

9. This order shall eclipse after thirty days from today.

10. 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.