

SUIJATA
VS
STATE OF PUNJAB

Present: Mr. Sachin Ohri, Advocate
for the petitioner.

(Through Video Conferencing)

Prayer in this petition is for grant of anticipatory bail to the petitioner in FIR No. 105 dated 09.06.2021, registered under Sections 420, 198, 199, 200, 120-B of the IPC at Police Station Dinanagar, District Gurdaspur.

The zeal and zest of disposing of protection petitions based on a live-in-relationship, on the very first date without issuing notice to the parents of the girl who is aged about 18 years like in the present case, some times result into deep trouble for the girl as petitioner had filed two protection petitions along with co-accused Gaurav and now she is facing the aforesaid FIR.

Learned counsel for the petitioner submits that petitioner Sujata had initially filed a criminal writ petition, bearing **CRWP-10686-2020**, along with co-accused Gaurav stating that she is in live-in-relationship with him and both be provided protection. The said petition was dismissed as withdrawn on 22.12.2020, for the obvious reasons that the Bench was not convinced. The petitioner and co-accused Gaurav again filed another criminal writ petition, bearing **CRWP-10944-2020**, by concealing the factum of first petition which was disposed of on the very first date i.e. 30.12.2020 with a direction to S.S.P., Gurdaspur to look into the representation dated 24.12.2020 seeking protection to the life and liberty of

the petitioners therein.

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Thereafter, the mother of the petitioner, namely Rozy, filed a *CRM-W-39-2021* in *CRWP-10944-2020* for recalling the order dated 30.12.2020 on two counts; firstly that the withdrawal of the first petition, i.e. *CRWP-10686-2020*, was not disclosed in the second petition and secondly that Gaurav is a married person having a living spouse namely Nisha and, therefore, the claim of live-in-relationship is apparently false. The said application was also disposed of with a direction to S.S.P., Gurdaspur to look into the grievances of the applicant. It is only thereafter, the police conducted an inquiry and registered the present FIR.

Learned counsel for the petitioner further submits that petitioner was not aware about the marriage of co-accused Gaurav when she filed the aforesaid two successive petitions for protection on the basis of the live-in-relationship as she has filed separate affidavit in both the petitions.

Learned counsel further submits that the petitioner was also not aware about concealing the factum of filing of the first petition in the second petition as again it was co-accused Gaurav, who had engaged the counsel and had filed the petition.

Though, in view of the judicial pronouncements by the Hon'ble Supreme Court, this Court, while exercising the powers under Section 482 Cr.P.C. or Articles 226/227 of the Constitution, is bound to protect the life and liberty of the citizens, however, the Court is also the guardian of the minor girls or the girls of tender age, who may be enticed away by a male person due to infatuation of tender age and without knowing the consequences of filing a petition based on live-in-relationship.

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It is now well known that the protection petitions based on live in relationship are filed in a noble and calculated manner, just to create a ground of defence as parents of the girl file police case of rape and abduction.

Needless to say, at the age, around 18 years, the primary concern of the parents of a girl is to educate her properly and to build up her professional career and such decisions are consciously taken by the parents, whereas the protection petitions, based on live-in-relationship, are filed by young persons based on emotional decisions taken from heart.

It is worth noticing here that the Parliament, vide Constitution (86th Amendment) Act, 2002, has incorporated Article 51A(k) in the Fundamental Duties of the Citizens, which reads as under:

“who is a parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen years.”

Though, the fundamental duties are not enforceable, however, the Court cannot ignore that an equilibrium is to be maintained between the fundamental rights and fundamental duties of the citizens.

Therefore, it is obvious for the Court that before disposing of any petition based on live-in-relationship, where the girl is either minor or of tender age around 18 years, notice be given to the parents of the girl or direction be issued to the Illaqua Magistrate to record the statement of the girl to find out whether she has understood the consequence of filing the protection petition and whether she is capable of taking independent decision.

Notice of motion.

Mr. Joginder Pal Ratra, DAG, Punjab, who is also appearing

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through video conferencing, accepts notice on behalf of the respondent-State and submits that after conducting a proper inquiry, the present FIR was registered as it was found that a fraud is played.

Learned State counsel further submits that since the mother of the petitioner has stated that petitioner was enticed away by co-accused Gaurav, the petitioner may be directed join investigation.

List again on 29.08.2021.

In the meantime, the petitioner is directed to appear before the Investigating Officer within a period of 10 days from today and in the event of arrest, the petitioner be released on interim bail subject to his furnishing personal bonds and surety to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438 (2) Cr.P.C.

The Investigating Officer will produce the petitioner before the Illaqua Magistrate, who will record her statement and submit a report to this Court if she wants to stay with her parents and whether she was aware that co-accused Gaurav is a married person, a fact which was concealed. It will also be open for the complainant/mother to appear before the Illaqua Magistrate for recording of her statement as well.

In the meantime, S.S.P., Gurdaspur is directed to ensure the arrest of co-accused Gaurav before the next date of hearing.

The SHO concerned shall inform the complainant/mother of the petitioner about this order as well as the next date of hearing.

27.07.2021

Wasim Ansari

(ARVIND SINGH SANGWAN)
JUDGE