

**Court No. - 70**

**Case :- APPLICATION U/S 528 BNSS No. - 7712 of 2025**

**Applicant :- Ankit Gautam And 5 Others**

**Opposite Party :- State of U.P. and Another**

**Counsel for Applicant :- Umesh Chandra Pandey**

**Counsel for Opposite Party :- G.A.**

**Hon'ble Rajeev Misra,J.**

1. Heard Mr. Rajeev Upadhyay, Advocate holding brief of Mr. Umesh Chandra Pandey, the learned counsel for applicants and the learned AGA for State-opposite party-1.

2. Perused the record.

3. Applicants- Ankit Gautam and 5 others, who are charge-sheeted accused and have now been summoned by court below have approached this Court by means of present application under Section 528 BNSS.

4. At the very outset, the learned AGA submits that feeling aggrieved by the FIR dated 12.06.2024 lodged by first informant opposite party-2 and giving rise to present criminal proceedings, applicants had earlier approached this Court by means of Criminal Misc. Writ Petition No.11484 of 2024 (Ankit Gautam and 5 others Vs. State of U.P. and 2 others) wherein an interim order dated 19.07.2024 was passed. For ready reference, the same is reproduced hereinunder:

**"1. This writ petition has been filed for quashing of the First Information Report dated 12.6.2024 lodged by respondent no.3-Arti giving rise to Case Crime No.41 of 2024 under sections 376, 323, 504 and 506 IPC, Police Station Mahila Thana, District Nagar (Commissionerate Agra). The petitioners have also prayed that they be not arrested in the aforesaid case.**

**2. Learned counsel for the petitioners has argued that in the year 2022, the petitioner no.1 and respondent no.3 had gone together of their own free volition. When the respondent no.3 disappeared from the house, a First Information Report was got lodged by her father on 8.9.2022 against one Badal. In that case, the statement of respondent no.3 was got recorded under section 164 Cr.P.C. and she had definitely given a statement that she had gone with Ankit Gautam (petitioner no.1 here) on her own volition. The matter did not end there. Learned counsel for the petitioners informs that the petitioner no.1 and respondent no.3 approached the High Court and filed a writ petition being Writ-C No.31728 of 2023 for being protected from their relatives and the police. This order was passed on 29.11.2023 and a bare perusal of the order**

**shows that Arti Rajput (the respondent no.3 in the instant writ petition) was the petitioner no.1. For ready reference, the order dated 29.11.2023 passed in Writ-C No.31728 of 2023 is being reproduced here as under :-**

**"Heard learned counsel for the petitioners and learned standing counsel for the State.**

**Present petition has been filed by the petitioners claiming protection of their lives and liberty as they are living together in live-in-relationship. The averments made in the petition are supported by the joint affidavit of the petitioners. Further, it is stated that private respondent and other family members have got annoyed and there is serious danger to the lives of the petitioners as they are being threatened and harassed.**

**In support of their age, petitioner no.1 has brought on record copy of her transfer certificate issued by Principal Bhartiya Bal Vidya Mandir Sr. Secondary School, Agra wherein her date of birth is shown as 24.06.2005 and petitioner no.2 has brought on record copy of High School Certificate wherein his date of birth is shown as 15.07.2003. Thus, it appears from the record that both the petitioners are major.**

**The petitioners have averred in the writ petition that they are living in live-in-relationship. It is stated that they have apprehension that private respondent can eliminate them for the honour of her family. In case this Court does not grant them protection, their lives may be endangered.**

**In view of the order proposed to be passed, there is no need to issue notice to private respondent. With the consent of learned counsel appearing for the parties, this writ petition is being disposed of finally at this stage in terms of the Rules of the Court.**

**The Supreme Court in a long line of decisions has settled the law that where a boy and a girl are major and they are living with their free will, then, nobody including their parents, has authority to interfere with their living together. Reference may be made to the judgements of the Supreme Court in the cases of Gian Devi v. The Superintendent, Nari Niketan, Delhi and others, (1976) 3 SCC 234; Lata Singh v. State of U.P. and another, (2006) 5 SCC 475; and, Bhagwan Dass v. State (NCT of Delhi), (2011) 6 SCC 396, which have consistently been followed by the Supreme Court and this Court, as well as of this Court in Deepika and another v. State of U.P. and others, 2013 (9) ADJ 534. The Supreme Court in Gian Devi (supra) has held as under:**

**"7. ... Whatever may be the date of birth of the petitioner, the fact remains that she is at present more than 18 years of age. As the petitioner is sui juris no fetters can be placed upon her choice of the person with whom she is to stay, nor can any restriction be imposed regarding the place where she should stay. The court or the relatives of the petitioner can also not substitute their opinion or preference for that of the petitioner in such a matter."**

**Having regard to the facts and circumstances of the case, this Court is of the view that the petitioners are at liberty to live together and no person shall be permitted to interfere in their peaceful living. In case any disturbance is caused in the peaceful living of the petitioners, the petitioners shall approach the Senior Superintendent of Police, Agra i.e. respondent no.2, with a copy of this order downloaded from the website of this Court, who shall provide immediate protection to the petitioners.**

**A liberty is granted to the private respondent that if the documents brought on the record are fabricated or forged or any false averment has been made or facts have been concealed, it will be open to him to file a recall application for recall of this order.**

**The protection is only against the use of criminal force or any illegal or unlawful act. However, any individual affected or aggrieved or any public authority may take lawful action for violation of any law civil or criminal.**

**With the aforesaid observations, the writ petition is partly allowed. No order as to**

costs."

3. Learned counsel for the petitioners thereafter states that after having lived with Ankit Gautam-petitioner no.1 for quite some time, now the impugned First Information Report has been lodged implicating not only Ankit Gautam but also the entire family. Learned counsel for the petitioners has pointed out from the statements given under sections 161 and 164 Cr.P.C. by the respondent no.3 that she had given very confusing and contradicting statements. In the statement under section 161 Cr.P.C. she had narrated about the story wherein there was some connivance with the petitioner no.1 for her own kidnapping. Further, under section 164 Cr.P.C. she does not blame Ankit in any manner whatsoever but she had implicated Akash Gautam-petitioner no.4. Learned counsel for the petitioners, therefore, states that the truthfulness of the respondent no.3 becomes very doubtful.

4. Learned AGA appearing for the State respondents and Sri Shashank Singh, Advocate holding brief of Sri Chandra Prakash, learned counsel appearing for the respondent no.3 vehemently opposed the writ petition.

5. However, upon hearing learned counsel for the petitioners and after going through the instructions handed over by learned AGA, the Court feels that a definite case has been made out for interference.

6. Learned AGA and learned counsel appearing for the respondent no.3 may file their counter affidavits within a period of three weeks. Rejoinder affidavit, if any, may be filed within two weeks thereafter.

7. List thereafter before the appropriate Court.

8. Until further orders, no coercive action shall be taken against the petitioners. However, the investigation shall continue and it would be expected that the petitioners would participate in the investigation."

5. Learned AGA further submits that aforementioned writ petition is still pending before this Court.

6. In view of above, it is desirable that this application be heard along with aforementioned Criminal Misc. Writ Petition.

7. Accordingly, connect this application along with aforementioned Criminal Misc. Writ Petition.

8. Matter shall re-appear as **fresh** on **30.04.2025** along with connected matter before the appropriate Bench after obtaining an order of nomination from Hon'ble The Chief Justice.

9. When the matter is listed next, the details of both the matters shall be duly published in the cause list.

**Order Date :- 23.4.2025/R.S. Tiwari**