



HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL MISC. WRIT PETITION No. - 7132 of 2026

Kunal Gupta

.....Petitioner(s)

Versus

State Of U.P. And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Guncha Shahid
Counsel for Respondent(s)	:	G.A.

Court No. - 49

HON'BLE RAJEEV MISRA, J.
HON'BLE PADAM NARAIN MISHRA, J.

1. Heard Ms. Guncha Shahid, the learned counsel for petitioner and the learned A.G.A. for State/respondents 1, 2 and 3.

2. Perused the record.

3. Petitioner-Kunal Gupta has approached this Court by means of present Criminal Misc. Writ Petition challenging the impugned F.I.R. dated 28.01.2026 lodged by first informant/respondent-4, Archana and registered as Case Crime No. 41 of 2026 under Sections 64, 61 (2), 123, 352, 351 (3) BNS and Section 67-B of the Information Technology (Amendment) Act, 2000, Police Station- Sadar Bazar, District-Shahjahanpur.

4. On the matter being taken up, the learned counsel for petitioner fairly submits that in connected Criminal Misc. Writ Petition No. 6847 of 2026 (Shiv Chauhan @ Shiv Pratap Singh Chauhan and another Vs. State of U.P. and others) this Court has already passed an interim order dated 31.03.2026. For ready reference the order dated 31.03.2026 is reproduced herein below:

"1. Heard Ms. Guncha Shahid, the learned counsel for petitioners and the learned A.G.A. for State-respondents 1 to 3.

2. Perused the record

3. Petitioners-Shiv Chauhan @ Shiv Pratap Singh Chauhan and Another have approached this Court by means of present criminal misc. writ petition challenging the FIR dated 28.01.2026 lodged by first informant-respondent-4, Archana and registered as Case Crime No. 41 of 2026, under Sections 64, 61(2), 123, 352, 351(3) BNS and Section 67-B of the Information Technology (Amendment) Act, 2000, Police Station-Sadar Bazar, District-Shahjahanpur.

4. Learned counsel for petitioners submits that the impugned FIR is not only malicious but also an abuse of the process of Court. Consequently, the same is

liable to be quashed by this Court.

5. In furtherance of aforesaid submission, the learned counsel for petitioners contend that the prosecutrix was already married before she is alleged to have entered into consensual physical relationship with petitioner-1. Referring to the judgment of Supreme Court in XX XX Vs. State of M.P., (2024) 3 SCC 496, the learned counsel for petitioners submits that the criminal prosecution of petitioners for the alleged offence cannot be sustained. Reference may also be made to the judgments of Supreme Court in the case of Mahesh Damu Khare Vs. State of Maharashtra & Anr. 2024 SCC Online SC 3471 as reiterated in Biswajyoti Chatterjee Vs. State of West Bengal, 2025 SCC OnLine SC 741, wherein the Apex Court quashed the criminal prosecution of accused therein on the ground that parties were in consensual physical relationship for long, therefore the criminal prosecution of accused for dislodging the modesty of prosecutrix on the ground of false promise of marriage cannot be sustained. On the above premise, the learned counsel for petitioners however thus submits that the impugned FIR cannot be sustained and therefore, the same is liable to be quashed by this Court.

6. It is next contended by the learned counsel for petitioners that from perusal of the body of the FIR, it is apparent that the day, date and time of the incident have not been mentioned in the FIR itself. According to the learned counsel for petitioners, though FIR is not an encyclopedia of the prosecution case but it does disclose the basic prosecution case. In support of above, he has referred to the following judgments of Supreme Court in (i). Manoj and Others Vs. State of Maharashtra, (1999) 4 SCC 268, (ii). Subhash Kumar Vs. State of Uttarakhand, (2009) 6 SCC 641 and (iii). Achhar Singh Vs. State of M.P. (2021) 5 SCC 543. It is therefore urged by the learned counsel for petitioners that when the basic prosecution case is examined in the light of the above, no criminality can be said to be conclusively established against the petitioner.

7. It is lastly contended by the learned counsel for petitioners that the prosecutrix is in the habit of extracting illegal money from innocent citizen. In furtherance of aforesaid submission, the learned counsel for petitioners contends that prior to the impugned FIR, the prosecutrix had lodged three FIRs, wherein same allegation of dislodging her modesty i.e. for an offence under Section 376 I.P.C. were made. On the edifice of aforesaid submissions, the learned counsel for petitioners would thus submit that the criminal prosecution of petitioners pursuant to impugned FIR cannot be sustained. As such, the impugned FIR is liable to be quashed by this Court.

8. Per contra, the learned A.G.A. for State-respondents 1 to 3 has vehemently opposed the present writ petition. He submits that since the impugned FIR discloses the commission of a cognizable offence, therefore, no interference is warranted by this Court in present writ petition. However, the learned A.G.A. could not dislodge the factual and legal submissions urged by the learned counsel for petitioners in support of present writ petition as noted herein above with

reference to the record at this stage.

9. Having heard, the learned counsel for petitioners, the learned A.G.A. for State-respondents 1 to 3 and upon perusal of record, we find that matter requires consideration.

10. Notice on behalf of State-respondents 1, 2 and 3 has been accepted by the learned A.G.A.

11. Issue notices to first informant-respondent-4.

12. Steps for service upon first informant-respondent-3 shall be taken by the learned counsel for petitioners within the time period prescribed under the Rules of Court.

13. All the respondents may file their respective counter affidavits within 4 weeks.

14. Petitioners will have 2 weeks thereafter to file their rejoinder affidavits.

15. List this writ petition for admission before appropriate Bench on 26.05.2026.

16. Considering the facts and circumstances of the case and also the submissions urged by the learned counsel for petitioners in support of this writ petition as noted herein above, as an interim measure, it is, hereby, provided that until further orders of this Court, petitioners shall not be arrested in Case Crime No. 41 of 2026, under Sections 64, 61(2), 123, 352, 351(3) BNS and Section 67-B of the Information Technology (Amendment) Act, 2000, Police Station-Sadar Bazar, District-Shahjahanpur.

17. We are not unmindful of the judgment of Supreme Court in Pradnya Pranjali Kulkarni Vs. State of Maharashtra and Another, 2025 SCC OnLine SC 1948. Therefore, we further direct that the investigation of concerned case crime number may go on but the requisite charge sheet/police report in terms of Section 193(3) BNSS shall not be submitted by the Investigating Officer before Court till the pendency of present writ petition.

18. The matter shall not be treated as tied up or part heard to this Bench.

19. Assignment, if any, shall stand discharged. "

5. On the above premise, the learned counsel for petitioner submits that present writ petition be also heard along with connected writ petition. However, an opportunity be granted to the parties to exchange their pleadings and in the interregnum, liberty of petitioner be also protected.

6. Per contra, the learned A.G.A. representing State/respondents 1, 2 and 3 has vehemently opposed this writ petition. However, the learned A.G.A. could not dislodge the equitable submissions urged by the learned counsel for petitioner in support of present writ petition, as noted herein above, with reference to the record at this stage.

7. Having heard the learned counsel for petitioner, the learned A.G.A. representing State/respondents 1, 2 and 3 and upon perusal of record we find that matter requires consideration.

8. Notice on behalf of State/respondents 1, 2 and 3 has been accepted by the learned A.G.A.

9. Issue notice to first informant/opposite party-4.

10. Steps for service upon first informant/respondent 4 shall be taken by the learned counsel for petitioner within the time period provided under the Rules of Court.

11. All the respondents may file their respective counter affidavits within six weeks.

12. Petitioner will have two weeks thereafter to file his rejoinder affidavits.

13. List this writ petition for admission before appropriate Bench on the date fixed in connected writ petition.

14. Considering the facts and circumstances of the case and also the facts and reasons mentioned in the order dated 31.03.2026 coupled with the fact that the prosecutrix has lodged two F.I.Rs. prior to the impugned F.I.R. also under Section 376 I.P.C., we are of the view that petitioner has made out case for grant of interim protection. Therefore, as an interim measure, it is hereby provided that until further orders of this Court petitioner shall not be arrested in Case Crime No. 41 of 2026 under Sections 64, 61 (2), 123, 352, 351 (3) BNS and Section 67-B of the Information Technology (Amendment) Act, 2000, Police Station- Sadar Bazar, District-Shahjahanpur. arising out of the impugned F.I.R. dated 28.01.2026.

15. We are not unmindful of the judgement of Supreme Court in **Pradnya Pranjali Kulkarni Vs. State of Maharashtra and another 2025 SCC OnLine SC 1948**. Therefore, we further direct that investigation of aforementioned case crime number may go on but Investigating Officer shall not submit the police report in terms of Section 193 (3) BNSS before the jurisdictional Magistrate/ court concerned, till the pendency of present writ petition.

16. Matter shall not be treated as tied up or part heard to this Bench.

17. Assignment, if any, shall stand discharged

April 29, 2026

YK

(Padam Narain Mishra,J.) (Rajeev Misra,J.)