



HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. WRIT PETITION No. - 7811 of 2026

Smt. Varsha And Another

.....Petitioner(s)

Versus

State Of U.P. And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Dheeraj Kumar Tiwari
Counsel for Respondent(s)	:	G.A.

Court No. - 49

**HON'BLE RAJEEV MISRA, J.
HON'BLE GARIMA PRASHAD, J.**

1. Supplementary affidavit filed by the learned counsel for petitioners in Court today is taken on record.
2. Heard Mr. Javed Alam, Advocate holding brief of Mr. Dheeraj Kumar Tiwari, the learned counsel for petitioners and the learned A.G.A. representing State respondents 1,2 and 3.
3. Perused the record.
4. Petitioners- Smt. Varsha and another have approached this Court by means of present criminal misc. writ petition challenging the FIR dated 16.03.2026 lodged by first informant-respondent-4, Rajani and registered as Case Crime No. 85 of 2026, under Sections 137 (2) and 87 of B.N.S., Police Station- Gabhana, District- Aligarh.
5. Learned counsel for petitioners in support of present writ petition submits that in view of the facts and circumstance of the case as have now emerged on record, the criminal prosecution of petitioners pursuant to the impugned FIR is not only malicious but also an abuse of the process of Court. As such, the same is liable to be quashed by this Court.
6. In furtherance of aforesaid submission, the learned counsel for petitioners submits that petitioner 1 is major as per her date of birth

mentioned in her Aadhar Card, photocopy of which is on record as annexure 2 to the writ petition. Similarly, petitioner 2 is also major as per his date of birth mentioned in his Aadhar Card, photocopy of which is on record as annexure 3 to the writ petition. On the above premise, the learned counsel for petitioners submits that since petitioners are major, therefore, they have right to choose own way of life. In support of aforesaid submissions, the learned counsel for petitioners has relied on the judgment of the Supreme Court in **S. Khushboo vs Kanniammal & Anr, AIR 2010 Supreme Court 3196**.

7. It is then contended by the learned counsel for petitioners that petitioners, who are major, fell in love with each other. On account of love as well as fascination for each other, petitioners duly solemnized their marriage in accordance with Hindu Rites and Customs on 12.02.2026. A categorical averment to that effect has been made in paragraph 2 of the supplementary affidavit filed by the learned counsel for petitioners in Court today. As such, on date, petitioners are living together as husband and wife.

8. It is thus contended by the learned counsel for petitioners that in view of above, the criminal prosecution of petitioners pursuant to the impugned F.I.R. cannot be sustained in law and fact. As such, the impugned FIR is liable to be quashed by this Court.

9. To buttress his submission, the learned counsel for petitioners has relied upon the judgements of Supreme Court in (i) **K. Dhandapani Vs. The State By the Inspector of Police, 2022 SCC OnLine SC 1056**, (ii) **Mafat Lal and another Vs. The State of Rajasthan, 2022 SCC OnLine SC 433** and (iii) **Criminal Appeal No. 41 of 2024 (Shriram Urav Vs. State of Chhattisgarh)** decided on 30.01.2025, wherein the Apex Court quashed the criminal prosecution of accused/petitioner therein on the ground that firstly accused/petitioner has solemnized marriage with the prosecutrix and secondly the Court cannot turn a blind eye to the said fact. On the edifice of above submission, the learned counsel for petitioners thus conclude that the present writ petition is liable to be allowed by this Court.

10. Per contra, the learned A.G.A. for State/respondents 1, 2 & 3 has vehemently opposed the present writ petition. Learned A.G.A. submits that since upon perusal of impugned FIR, commission of a cognizable offence is clearly disclosed, therefore, no interference is warranted by this Court in present writ petition. However, he 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.

11. Be that as it may, having heard the learned counsel for petitioners, the learned A.G.A. representing State-respondents 1, 2 & 3, upon perusal of record and considering the submissions urged by the learned counsel for petitioners as noted herein above, we are of the view that matter requires consideration.

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

13. Issue notice to first informant-respondent-4.

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

15. All the respondents may file their respective counter affidavits within 6 weeks.

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

17. List this writ petition for admission before appropriate Bench on 03.08.2026.

18. Considering the facts and circumstances of the case and also the submissions urged by the learned counsel for petitioners in support of present 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. 85 of 2026, under Sections 137 (2) and 87 of B.N.S., Police Station- Gabhana, District- Aligarh arising out of FIR

dated 16.03.2026.

19. We are not unmindful of the judgment of Supreme Court in ***Pradnya Pranjal Kulkarni Vs. State of Maharashtra and Another, 2025 SCC OnLine SC 1948***. Therefore, we further direct that investigation of concerned case crime number may go on but the requisite 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.

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

21. Assignment, if any, stands discharged.

(Garima Prashad,J.) (Rajeev Misra,J.)

May 4, 2026
Sachin Mishra