

Court No. - 81

Case :- HABEAS CORPUS WRIT PETITION No. - 958 of 2023

Petitioner :- Smt. Sumaiyya And Another

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Mohammad Arshad Khan, Abhay Mishra

Counsel for Respondent :- G.A., Sadaful Islam Jafri

Hon'ble Mrs. Jyotsna Sharma, J.

1. Heard Mohammad Arshad Khan, learned counsel for the petitioner, and Sri Sadaful Islam Jafri, learned counsel for respondent no.4 and Sri L.D. Rajbhar, learned A.G.A. for the State-respondents.

2. Smt. Sumaiyya, petitioner no.1, Saleem, petitioner no.2 and Asif, respondent no.4 are present in person before me identified by their respective counsels.

3. In the open court when I asked the corpus to express her views as regard this petition and specifically queried whether she has voluntarily married Saleem, son of Babu, she remained tight-lipped and did not speak a word in the open Court, therefore, I called her and interacted with her in the privacy of my chamber. On my repeated assurance, she felt secure and comfortable. She stated that she and Saleem tied nuptial knot on 21.09.2023 as per Muslim customs and rituals. She disclosed that their family members were against this marriage, therefore, they did not participate. She said that as she has already got married to Saleem, therefore, no second marriage can be performed with any person, without first obtaining any divorce and that she has been forced to undergo Nikah ceremony and sign the nikahnama with another person named Mohisin of Gulawati, Bulandshahar, under fear and pressure from members of her family including respondent no.4 and that she does not recognize this second marriage.

4. Sustained interaction with the corpus revealed that she is under intense pressure and apprehends physical harm and danger from family members of both the sides and particularly from her own family members. The corpus refused to go out of my chamber till suitable arrangement for police protection is made. She expressed threats to her own and her husband's life therefore, for the time being S.I. Ram Adhar Yadav, and Ms. Shikha Singh, lady Constable, members of Security Staff deputed in the High Court Premises are directed to keep them safe till further arrangement is made.

5. In view of emphatic declaration by the corpus Smt. Sumaiyya (aged 23 years) that she, out of her own free will and desire married Saleem and that she shall stay with him only and in view of real apprehension of physical harm expressed by her as well as petitioner no.2, this petition is disposed of as below:-

i. Petitioner no.1, Smt. Sumaiyya is allowed to accompany petitioner no.2 Saleem.

ii. The High Court Security Staff shall handover the petitioners to the police personnel as arranged by Registrar Compliance to take them to their house in safe custody at Bulandshahar.

iii. Respondent no.4 and members of his family shall not interfere in their peaceful married life.

vi. Respondent no.2, Senior Superintendent of Police, Bulandshahar is directed to issue suitable directions to all concerned, so that no members of families of petitioner no.1 and petitioner no.2 unduly interfere in their married life.

6. Copy of this order shall be immediately transmitted to respondents no.2 and 3.

Order Date :- 11.12.2023

Asha