

Court No. - 67

Case :- CRIMINAL MISC. WRIT PETITION No. - 17926 of 2023

Petitioner :- Smt. Priya And 5 Others

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

Counsel for Petitioner :- Shobh Nath Pandey, Ashutosh Pandey

Counsel for Respondent :- G.A.

Hon'ble Rahul Chaturvedi, J.

Hon'ble Syed Qamar Hasan Rizvi, J.

Heard learned counsel for the petitioners and learned A.G.A. Perused the record.

By means of the present writ petition the petitioners are praying to quash the F.I.R. dated 1.11.2023 registered as case crime no.885 of 2023, under Section 366, 346 I.P.C., Police Station-Baradari, District Bareilly and also to stay their arrest during the pendency of investigation of the case.

An F.I.R. was lodged on 01.11.2023 for the incident said to have taken place on 12.10.2023 u/s 366, 346 of I.P.C. by one Hari Shankar against Ankit, Manoj, Ankush, Aneet and Satyapal with the allegation that on 12.10.2023 her daughter had gone to computer coaching but she did not come back. The informant made much efforts to search out but whereabouts of her girl is not known. It was further alleged in the F.I.R. that on 13.10.2023 he received a call from the phone number of her daughter that she was enticed away by Ankit, Manoj, Ankush, Aneet and Satyapal and she is under their captivity in an unknown place.

It is contended by learned counsel for the petitioners that petitioner no.1 Priya, according to her High School Certificate, her date of birth is 6.3.2003, as such, she is aged about 20 years and petitioner no.2 Ankit Kumar, according to his High School Certificate, his date of birth is 30.6.1994, thus he is aged about 29 years. Submission of learned counsel for petitioners is that Priya and Ankit were in deep love with each other and they eloped together and performed their marriage on 13.10.2023. They have got their marriage registered on 27.10.2023, copy of Certificate of Registration of Marriage dated 27.10.2023 is annexed as Annexure-4 along with the petition. Contention of learned counsel for petitioners is that both the boy and girl are major and they have

a right to choose their life partners, and accordingly, the girl has chosen her life partner to petitioner no.2 willfully and they are leading their life as husband and wife happily and peacefully.

Taking into account the totality of circumstances, the interest of petitioners is protected and they shall not be arrested in aforesaid case crime till submission of report u/s 173(2) Cr.P.C., provided the investigation shall go on unabated and petitioners shall participate in the investigation regularly as and when required.

The Investigating Officer of the case is directed to record statement of the girl u/s 161 Cr.P.C. and produce her before the Magistrate for recording her statement u/s 164 Cr.P.C. within next 15 days. In case, her statement u/s 164 Cr.P.C. is found favourable to petitioner no.2, the petitioner no.2 shall not be arrested till submission of police report under Section 173(2) Cr.P.C., provided that he shall co-operate with the investigation. In case petitioner no.1 gives statement against petitioner no.2, it shall be open to the police authority to arrest the petitioner no.2 and proceed further in accordance with law.

With the aforesaid observation, the present petition is disposed off.

Order Date :- 20.11.2023

M. Kumar