

**INTHEHIGHCOURTOFJAMMU&KASHMIRANDLADAKH AT
SRINAGAR**

WP(C) 1846/2025

Saniya Satar AND ANR.

...Petitioner/Appellant(s)

Through: Mr. Mubashir Vikar Mir, Advocate

Vs.

**UNION TERRITORY of J&K through...Respondent(s)
Director General (Home) and ors.**

Through: None

CORAM:

HON'BLEMR.JUSTICEMOHDYOUSUFWANI,JUDGE

ORDER

15.09.2025

1. Through the medium of the instant petition filed under Article 226 of the Constitution of India, petitioners have sought the issuance of writs *inter alia* in the nature of mandamus for commanding upon the respondents 1 to 5 to provide them necessary protection as and when needed so that their right to life and personal liberty is not curtailed on account of their having wedded to each other out of their own free will and consent, as also for commanding private respondents 6 to 20 to refrain from interfering with their wedlock.
2. It is the case of the petitioners that they being major have contracted marriage with each other as per their personal law out of their own free will and consent. That since the petitioner No. 1 has contracted marriage with the petitioner No.2 without the consent of her home people, as such, they both apprehend threat to their life at the hands of the private respondents 6 to 20, who happen to be the father, brothers, sisters and other relatives of the petitioner No.1.
3. On 05.08.2025, when the matter came up for hearing in prersence of the petitioners, it was learnt from the persual of the copies of the documents enclosed with the petition especially the school certificates of the petitioners that their dates of birth are 12.05.2001 and 09.07.2005

respectively. Since the petitioner No.2 (male) was found to be below the age of 21 years, thus being a child in terms of Prohibition of Child Marriage Act, 2006, as such, a query was raised by this Court as to how the petitioners who allege to have wedded with each other out of their own free will can be provided protection in violation of provisions of “Prohibition of Child Marriage Act, 2006”. The learned counsel for the petitioners in response to the query of this court sought adjournment for production of case law. The learned counsel for the petitioners was heard on today in respect of the query who while placing reliance on the authoritative judgments of the Hon’ble Supreme Court cited as “***Lata Singh vs. State of UP and ors, AIR (2006) 5 SCC 475***”; ***Hardev Singh v. Harpreet Kour and ors, AIR 2020 SC 37***, as also the judgment of the Hon’ble P & H High Court at Chandigarh titled ***Divya vs. State of Punjab and anr clubbed with Gulistan @ Manak and anr vs. State of Punjab and ors, AIR online 2020 P&H 876***, submitted that an adult male and female can marry of their own consent and choice in connection whereof they need every protection from the authorities if needed. He also submitted that a male child of the age group between 18 to 21 can marry an adult female with option to get his marriage annulled under section 3 of the Prohibition of Child Marriage Act, 2006.

4. It is appropriate to reproduce the relevant paras of referred judgments:

“Lata Singh vs. State of UP and ors, para 16.

16. The caste system is a curse on the nation and the sooner it is destroyed the better. In fact, it is dividing the nation at a time when we have to be united to face the challenges before the nation unitedly. Hence, inter-caste marriages are in fact in the national interest as they will result in destroying the caste system. However, disturbing news are coming from several parts of the country that young men and women who undergo inter-caste marriage, are threatened with violence, or violence is actually committed on them. In our opinion, such acts of violence or threats or harassment are wholly illegal and those who commit them must be severely punished. This is a free and democratic country, and once a person becomes a major he or she can marry whosoever he/she likes.

Hardev Singh v. Harpreet Kour and ors, para 3.8, 3.9 and 4.

3.8. [Section 9](#) of the 2006 Act must be viewed in the backdrop of this gender dimension to the practice of child marriage. Thus, it can be inferred that the intention behind punishing only male adults contracting child marriages is to protect minor young girls from the negative consequences thereof by creating a deterrent effect for prospective grooms who, by virtue of being above eighteen years of age are deemed to have the capacity to opt out of such marriages. Nowhere from the discussion above can it be gleaned that the legislators sought to punish a male

between the age of eighteen and twenty one years who contracts into a marriage with a female adult. Instead, the 2006 Act affords such a male, who is a child for the purposes of the Act, the remedy of getting the marriage annulled by proceeding under [Section 3](#) of the 2006 Act. Hence, male adults between the age of eighteen and twenty one years of age, who marry female adults cannot be brought under the ambit of [Section 9](#), as this is not the mischief that the provision seeks to remedy.

3.9. Our views are supported by the marginal note of [Section 9](#), which reads “Punishment for male adult marrying a child”. It is well settled that where any ambiguity exists with regard to the interpretation of a legislative provision, the marginal note can be used in aid of construction, having regard to the object of the legislation and the mischief it seeks to remedy.

4. Having regard to the above discussion, [Section 9](#) of the 2006 Act does not apply to the present case at all. By way of abundant caution, we wish to clarify that we are not commenting on the validity of marriages entered into by a man aged between eighteen and twenty one years and an adult woman. In such cases, the man may have the option to get his marriage annulled under [Section 3](#) of the 2006 Act, subject to the conditions prescribed therein.

Divya vs. State of Punjab and anr, para 18 & 19.

18. As regards protection to be given to the minors/children or even a major, I have already observed that in appropriate cases, depending upon factual position, the same ought to be provided to them to protect their life. Albeit, one has to sometimes tread cautiously in the case of minor to provide protection, as invariably, protection granted by this Court may be used as a shield by the accused to project it as an immunity from the statutory offences, as noted above. Therefore, each case will have to be examined on its own facts and circumstances.

19. Adverting to the case in hand i.e. criminal writ petition bearing CRWP No.8066 of 2020, the partners are both major, though one of them is not of marriageable age, but their action does not constitute any offence under [The Prohibition of Child Marriage Act](#) 2016 and/or [Indian Penal Code](#) 1860. Respondent No.2 i.e. Superintendent of Police, SAS Nagar, Mohali, before whom representation of the petitioners is pending (Annexure P-5) is, therefore, directed to look into the representation and ascertain the threat perception of the petitioners. If warranted and deemed fit, further appropriate steps be taken to provide necessary protection qua their life and liberty, in accordance with law.”

5. The petitioners who were present before the Court on 05th August 2025, have placed on record the scanned copies of their Birth Certificates as also alleged “Nikah Nama”. Perusal of the copies of the Birth Certificates reveals that the date of birth of petitioner No.1 **Saniya Satar is 12.05.2001**, while as that of petitioner No.2 **Aftab Ahmad Khan is 09.07.2005**. The age of petitioner No.2 (male) is 20 years 2 months and 06 days.
6. It is submitted by the learned counsel for the petitioners that the petitioners have contracted marriage out of their own free will and

choice, as such the instant writ petition be disposed of at this stage in view of the law laid down in the above referred judgments by the Hon'ble Supreme Court, by passing the appropriate directions upon the respondents to safe guard the life and liberty of the petitioners, to prevent any sort of undue harassment to them, and also interference with their matrimonial life.

7. In the facts and circumstances of the case, this court is of the opinion that the instant matter can be disposed of at this stage by passing appropriate orders in accordance with the law referred to hereinbefore.

8. Accordingly the instant petition is disposed of with the following directions:

- i. The official respondents 1 to 5 shall ensure that no unjustified harassment is being caused to the petitioners and they shall be provided protection as and when asked for the same;
- ii. The private respondents 6 to 20 shall also desist from causing any illegal and unjustified harassment to the petitioners, so that their right to life and personal liberty is not interfered with.

9. However, in view of the ratio decidendi of the law laid down by the Hon'ble Supreme Court of India in *Doly Rani vs. Manish Kumar Chanchal* [2024 Live Law (SC) 334 =2024 SCC Online SC 754] decided on 19.04.2024, this order shall not be construed as any opinion of this Court regarding the validity of marriage as per Personal Law guaranteeing the parties. However, the petitioner No. 2 (male adult) shall be at liberty to get his marriage regarding validity of which this Court has not made any comment, annulled in accordance with law, if so chooses.

10. **Disposed of** along with connected CM.

(MOHDYOUSUF WANI)
JUDGE

SRINAGAR:

15.09.2025

Ayaz