2026:AHC:208751-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. WRIT PETITION No. - 9144 of 2025

Rahul And Another

.....Petitioner(s)

Versus

State Of U.P. And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Sanjay Kumar Srivastava
Counsel for Respondent(s)	:	G.A.

Court No. - 47

HON'BLE RAJEEV MISRA, J.
HON'BLE JAI KRISHNA UPADHYAY, J.

1. Heard Mr. Sanjay Kumar Srivastava, the learned counsel for petitioners and the learned A.G.A. for State/respondents 1 and 2.

2. Perused the record.

3. Petitioners-Rahul And Another have approached this Court by means of present Criminal Misc. Writ Petition challenging the F.I.R. dated 26.08.2023 lodged by first informant/respondent-3, Ram Pal and registered as Case Crime No. 0427 of 2023 under Section 363 I.P.C., Police Station-Saurikh, District-Kannauj.

4. Present writ petition came up for admission on 14.05.2025 and this court passed the following order:

"1. Heard learned cousnel for the petitioner and learned A.G.A. for the State-respondent and perused the material available on record.

2. Counsel for the petitioner submits that the petitioners claim themselves to be major and they are living in live-in relationship. There is no definite proof of the age of petitioner No.2, Mohini. The petitioner No1 is directed to produce petitioner No.2 before the CJM, Kannauj for her Ossification Test and recording of her statement under Section 164 Cr.P.C. within a period of five days.

3. The CJM, concerned will call the Investigating Officer and get the statement of the victim recorded under Section 164 Cr.P.C.

4. C.J.M., concerned is directed to get the ossification test of the petitioner no.2 Mohini (victim) conducted through C.M.O by panel of three doctors and also get the statement of victim recorded under Section 164 Cr.P.C.

5. Duly certified photocopy of report of C.M.O and statement of victim shall be sent

to this court in sealed cover within period of ten days.

6. Put up this case as a fresh case again on 30.05.2025 before the appropriate Bench.

7. Till the next date of listing or till cognizance is taken by court on police report submitted under Section 173(2) Cr.P.C., whichever is earlier, the respondents are restrained from arresting the petitioners pursuant to the First Information Report dated 26.08.2023, registered as Case Crime No.0427 of 2023, under Sections- 363 IPC, Police Station- Saurikh, District Kannauj, subject to cooperation in ongoing investigation.

Order Date :- 14.5.2025 "

5. On the matter being taken up, the learned counsel for petitioner fairly submits that during pendency of present writ petition, Investigating Officer upon completion of statutory investigation of aforementioned case crime number in terms of Chapter XII Cr.P.C. has already submitted the charge sheet/ police report dated 12.06.2026 as provided under Section 173 (2) Cr.P.C. On the above premise, it thus contended by the learned counsel for petitioner that he be permitted to withdraw the present writ petitioner with liberty to file an application under Section 528 BNSS challenging aforementioned charge sheet/police report as well as the cognizance taking order/summoning order to be passed by the jurisdictional Magistrate in exercise of jurisdiction under Section 190 (1) (b) Cr.P.C. / Section 210 BNSS.

6. Learned A.G.A. representing State/respondents 1 and 2 has no objection to the aforesaid prayer made by the learned counsel for petitioners.

7. In view of above, this writ petition is dismissed as withdrawn with liberty aforesaid.

8. Interim order, if any, granted earlier shall stand vacated.

October 6, 2026
YK

(Jai Krishna Upadhyay,J.) (Rajeev Misra,J.)

Digitally signed by :-
YASHWANT KUMAR
High Court of Judicature at Allahabad