



HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. WRIT PETITION No. - 3799 of 2026

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.....Petitioner(s)

Versus

State of U.P. and others

.....Respondent(s)

Counsel for Petitioner(s) : Brajesh Kumar, Shahenshah Akhtar Khan
Counsel for Respondent(s) : Ajay Kumar Mishra, G.A., Sharangpani Vikramdhar Dwivedi

Court No. - 47

**HON'BLE J.J. MUNIR, J.
HON'BLE TARUN SAXENA, J.**

(Order on the memo of Writ Petition)

Heard Mr. Shahenshah Akhtar Khan, learned Counsel for the petitioners and Mr. Ghan Shyam Kumar, learned Additional Government Advocate-I appearing on behalf of the State.

The first and the second petitioner, who are adults, are staying together in a live-in relationship. The first petitioner is admittedly a major, as the First Information Report lodged by the mother of the first petitioner says that she is 18 years of age. However, the informant says that the first petitioner was taken away by blandishment by the second petitioner.

It is pointed out by learned Counsel for the caveator, Mr. Ajay Kumar Mishra that the second petitioner is a married man, and therefore, it is an offence for him to stay with another woman.

There is no offence of the kind where a married man, staying with an adult in a live-in relationship, by consent of the other person, can be prosecuted for any offence, whatsoever. Morality and law have to be kept apart. If there

is no offence under the law made out, social opinions and morality will not guide the action of the Court for protecting the rights of citizens.

An application has been made by the first petitioner to the Superintendent of Police, Shahjahanpur, saying that she is an adult and staying of her freewill with the second petitioner in a live-in relationship. It is reported that her parents and other family members are averse to the marriage and have threatened her with death, and both fear honour killing. Apparently, no action has been taken on this complaint by the Superintendent of Police. To protect two adults living together is the duty of the Police. Particular obligations in this regard are cast upon the Superintendent of Police, as held by the Supreme Court in **Shakti Vahini v. Union of India and others, (2018) 7 SCC 192**. This petition is supported by joint affidavit of both the petitioners.

A prima facie case is made out.

Admit.

Notice on behalf of respondent nos. 1 to 3 is accepted by Mr. Ghan Shyam Kumar, learned Additional Government Advocate-I, whereas that on behalf of respondent no. 4, by Mr. Ajay Kumar Mishra, Advocate. Both the learned Counsel are granted two weeks' time to file a counter affidavit.

Adjourned to **08.04.2026**.

To be taken up in the cause list of the day for **orders**, along with a report regarding status of affidavits.

(Order on Criminal Misc. Stay Application No. 1 of 2026)

Issue notice.

Until further orders of this Court, the petitioners, to wit, [REDACTED] and [REDACTED] shall not be arrested in Case Crime No. 4 of 2026, under Section 87 of the Bharatiya Nyaya Sanhita, 2023, Police Station Jaitipur, District Shahjahanpur.

The fourth respondent and all members of the first petitioner's family stand restrained from causing harm to the parties in life or limb and shall not enter the parties' matrimonial home or contact them directly or through any electronic means of communication or through the agency of others. The Superintendent of Police, Shahjahanpur shall be personally responsible to ensure the safety and security of the petitioners.

The Registrar (Compliance) is directed to communicate this order to the Superintendent of Police, Shahjahanpur and the Station House Officer, Police Station Jaitipur, District Shahjahanpur, both through the learned Chief Judicial Magistrate, Shahjahanpur **within 24 hours next**.

(Tarun Saxena,J.) (J.J. Munir,J.)

March 25, 2026

I. Batabyal