

**Court No. - 9**

**Case :-** CRIMINAL MISC. WRIT PETITION No. - 1699 of 2022

**Petitioner :-** Taslimun Nisha Alias Tanu Arya And Another

**Respondent :-** State Of U.P. Thru. Its Prin. Secy. Home Civil Sectt. Lko. And Others

**Counsel for Petitioner :-** Parashu Ram Kanaujia

**Counsel for Respondent :-** G.A.

**Hon'ble Arvind Kumar Mishra-I,J.**

**Hon'ble Manish Mathur,J.**

Both the petitioners are present in Court and they have been identified by their counsel Mr. Parashu Ram Kanaujiya. Both the petitioners are major and they have entered into nuptial knot.

Copy of the marriage certificate issued by Arya Samaj Safedabad, Barabanki dated 09.03.2022 has been annexed as Annexure no.2. The date of birth of petitioner no.1 is 06.01.2004 as per High School Certificate/ Mark-sheet for the year 2019 and the date of birth of petitioner no.2 is 09.07.1998 as per Mark-sheet/ Certificate of High School Examination 2013 copies whereof are annexed as Annexure no.3 to this petition.

Now claim that a false and concocted FIR under Section 366 IPC has been lodged by father of petitioner no.1 Mr. Mohammad Said and a case has been registered at Case Crime No.0075 of 2022 at Police Station Amethi, District Amethi, the applicants fear that they may be arrested by police their fundamental rights shall be infringed.

However considering the fact that the High School Certificate produced before us to indicate that the petitioners are major and it being so, the petitioners shall not be arrested, unless and until the copies of High School Certificate of both petitioners are found to be fake and cannot be believed so and for this, the Investigating Officer must record reasons in detail in the case diary after recording statement of the authority concerned which purportedly issued the certificate and unless and until that is done, it cannot be deemed merely on the asking that the truth unravelled before this Court in shape of High School Certificate appears to be not genuine and in case after investigation the truth comes out either way then course of action open to the Investigation Officer should be followed and it being so fair investigation is expected.

It is noticeable and a reminder to the police that in case of proof

of age of victim of an offence under Sections 363, 366 IPC etc. the age becomes prime consideration and the police authority concerned must determine about the veracity and the authenticity of the documents which are available to them so as to assess first the age and so is the case of free will of the victim and in case it is found that the victim of her own free will being major has taken any step for her life then due course of law should prevail and no one should be unnecessary put to any harassment.

With the aforesaid direction, the petition is **disposed of**.

**Order Date :- 4.4.2022**

Subodh/-