

Band, baaja, baarat smoothens entry in US for Indian spouses

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Highlights

- Consulate officials are well versed with the concept of an arranged marriage and largely sensitised to the challenges that may surround an inter-caste or inter-religious marriage
- If the wedding was celebrated with the pomp associated with a traditional marriage and was registered, there is usually no issue

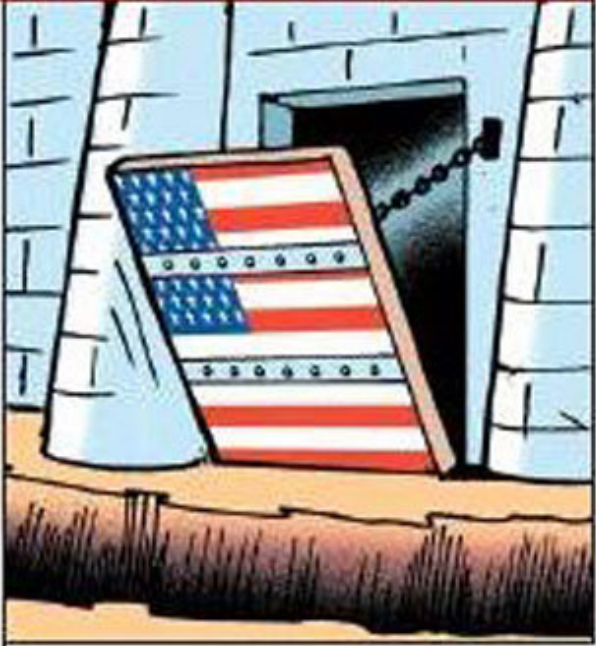


MUMBAI: A big fat Indian wedding invariably convinces US consulate officials in India that the marriage was genuine and the bride was not angling for a US green card. Kavita Dixit (name changed), whose wedding was conducted on a much smaller scale as a matter of choice, found herself facing strange questions.

Marriage to a permanent resident in the US, be it a green card holder or a US citizen, does not mean that the India-based spouse can board the next flight. There is a waiting period involved and the first step is tackling the interview.

WHEN CAN YOU JOIN SPOUSE IN US?

- Spouses (of green-card holders or US citizens) are eligible for an immigrant visa (green card) under Family 2A preference
- Processing of the application (Form I-130 to be filed by spouse who is sponsoring) takes 6-8 months
- Only a limited number (varying from month to month) of green cards are issued to spouses of green card holders; thus they face a backlog
- Spouses of US citizens can expect to be in USA within a year and those of green card holders within 3-4 years



- Spouses of temporary workers in the US, such as those holding an H-1B or L-1 visa, get a dependant visa which is co-terminus with the remaining period of the principal visa holder. Such a visa takes 90 days to obtain

According to immigration attorneys, consulate officials are well versed with the concept of an arranged marriage and largely sensitised to the challenges that may surround an inter-caste or inter-religious marriage. But it's best for the bride to be prepared for any questions that may crop up.

"The consulate official double-checks by looking at the wedding album and other evidence such as bookings related to the marriage venue or honeymoon," says Cyrus Mehta, a New York-based immigration attorney and founder of a law firm.

If the wedding was celebrated with the pomp associated with a traditional marriage and was registered, there is usually no issue. "With respect to Hindu marriages, the consulate looks to see whether the customary marriage rituals such as 'saptapadi' were adhered to, although a Hindu marriage can be legally valid even in the absence of the couple taking these seven steps around a fire. If the bona fides of a marriage are suspect, then discreet inquiries may be conducted – for example, by asking the neighbours," says Mehta.

Rajiv S Khanna, managing attorney at Immigration.com says, "In a recent case, the consulate official was highly suspicious as the traditional pomp was missing and the marriage was attended by only around 10 people. Once it was explained that the marriage was an inter-caste

one, which was vehemently opposed by families from both sides, which resulted in the smaller number of invitees and a low-key celebration, the process was smooth-sailing.”

“As the couple have not yet started living together, the questions also centre around how often they stay in touch and their future plans,” adds Khanna.

David Nachman, managing attorney at NPZ Law Group points out: “US consulate officers are also trained in the myriad nuances of Indian culture, such as the protocol and pressures for individuals to marry within their castes, religions and even geographies. To illustrate, a case involving a Punjabi in India marrying a Gujarati US citizen is more likely to result in an administrative processing inquiry.”

“The Fraud Detection and National Security (FDNS) agency has recommended that immigration officers look at social websites to check if the couple are in a valid marital relationship. We caution our clients to check all their social media accounts and update or sanitise them,” says Snehal Batra, managing attorney at NPZ Law Group.

It’s also possible for the wife to already be in the US, say on an H-1B work visa. Post marriage to a green card holder or US citizen, she can apply for a green card (known as adjustment of status), but the interview process is more rigorous.

“Officials of the US Citizenship and Immigration Services (USCIS) conduct separate interviews – referred to as the Stokes interview, to make sure the couple is living together and corroborate the answers. The questions can range from where they met, the proposal itself, foods they like, who does household chores, sleeping habits, hobbies, toiletries used et all” says Khanna.

“The couple has the right to have an attorney present throughout separate interviews. In one such interview, the husband was asked: ‘How do you wake up in the morning?’ He responded that he used an alarm clock. The wife who was separately interviewed said a cellphone was used. I was able to clarify that the alarm was set on the cellphone, else this client’s application would have been denied,” illustrates Batra.

Adjusting status to a green card while on a short-term visit to meet one’s husband can also be problematic. “Her entry to the US can be treated as fraudulent with the main intent of converting to a green card – consequences can even be a permanent bar,” cautions Khanna.