

Issue 1: Whether the writ petition filed under Art. 32 of the constitution against Uppam Pradesh Prohibition of Unlawful Religious Conversion Ordinance 2020 and SLP filed under Art.136 of the constitution for granting bail under Sec. 498A are maintainable in this Hon'ble Court of Justice?

Your lordship the bench would emphatically assert the maintainability of the Writ Petition filed under Article 32 of the Constitution of India, challenging the constitutionality of the Uppam Pradesh Prohibition of Unlawful Religious Conversion Ordinance, 2020.

The State of Uppam Pradesh, to respectfully submit that the challenge to the Uppam Pradesh Prohibition of Unlawful Religious Conversion Ordinance, 2020, under Article 32, is premature and not maintainable as the Ordinance is a legitimate exercise of the state's legislative competence aimed at regulating unlawful religious conversions, and the concerns raised by the Petitioners are speculative and not based on concrete violations of their fundamental rights.

The State, under its constitutional mandate to maintain public order (Entry 1, List II, Seventh Schedule) and to legislate on matters of social welfare and social reform (Entry 5, List III, Seventh Schedule), possesses the inherent legislative competence to enact laws aimed at preventing fraudulent and coercive practices that can disrupt social harmony and impinge upon the autonomy and dignity of individuals. The Ordinance, in seeking to regulate conversions achieved through such illicit means, falls squarely within this legislative domain.

The requirement for intimation to the District Magistrate prior to a religious conversion for the purpose of marriage is a procedural safeguard designed to ensure transparency and prevent the exploitation of vulnerable individuals. It is a regulatory measure, not a prohibition on the exercise of religious freedom. The State has a legitimate interest in ensuring that conversions, particularly those preceding marriage, are genuine and not the result of coercion or deceit, especially in light of the concerns raised in the public domain regarding organized activities aimed at such unlawful conversions, as alluded to in Paragraph 3.

Firstly, the Ordinance strikes at the heart of the **Right to Freedom of Religion**, guaranteed under Article 25. This Hon'ble Court, in the landmark case of **Commissioner, Hindu Religious Endowments, Madras v. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt (1954 SCR 1005)**, established the broad contours of Article 25, recognizing not only the freedom to entertain religious beliefs but also the right to practice and propagate one's religion. The present Ordinance, by criminalizing conversions based on vague terms like "allurement" and mandating prior state approval, imposes an unreasonable restriction on this fundamental right, effectively placing the state as an arbiter of an individual's faith.

Secondly, the Ordinance severely curtails the **Right to Marry a Person of One's Choice**, a right intrinsically linked to the **Right to Life and Personal Liberty** under Article 21. This Hon'ble Court, in a catena of decisions, including **Lata Singh v. State of U.P. (2006 (5) SCC 475)** and **Shafin Jahan v. K.M. Ashokan (2018 (16) SCC 368)**, has unequivocally affirmed the right of individuals to choose their life partners, irrespective of religion. The requirement of prior permission for religious conversion preceding marriage is a direct affront to this fundamental aspect of personal autonomy and liberty, effectively subjecting the personal choices of individuals to state control.

The Ordinance raises grave concerns regarding the **Right to Equality** under Article 14. The very nomenclature and the surrounding discourse indicate a discriminatory intent, primarily targeting interfaith marriages involving individuals from specific religious communities. This Hon'ble Court, in cases like **E.P. Royappa v. State of Tamil Nadu (1974 (4) SCC 3)**, has held that Article 14 strikes at arbitrariness and discrimination. The present Ordinance, with its potential for discriminatory application and its focus on a specific class of conversions, fails the test of reasonable classification and violates the principle of equality.

The Ordinance encroaches upon the **Right to Privacy**, which this Hon'ble Court has recognized as an integral part of Article 21 in the seminal case of **K.S. Puttaswamy (Retd.) v. Union of India (2017 (10) SCC 1)**. The decision to change one's religion and to marry are deeply personal choices that fall within the private sphere of an individual. The state's attempt to regulate these personal decisions through a restrictive ordinance constitutes an unwarranted invasion of privacy.

My Lords, given the direct and substantial violation of fundamental rights guaranteed under Articles 14, 21, and 25 of the Constitution, the present Writ Petition under Article 32 is not only maintainable but is a necessary invocation of this Hon'ble Court's constitutional duty as the guardian of fundamental rights. The Ordinance's overreach and its potential for misuse necessitate the immediate scrutiny of this Hon'ble Court.

My Lords, Article 136 vests in this Apex Court a plenary and residuary power to grant special leave to appeal from any judgment, decree, determination, sentence, or order passed by any court or tribunal within the territory of India. While this power is discretionary and exercised with circumspection, the present circumstances, involving a denial of personal liberty based on a contentious legal provision, warrant its invocation.

In paragraph 13, The denial of bail is an interlocutory order, and the petitioners have alternative remedies available in the lower court.

So it impacts the **Right to Personal Liberty** guaranteed under Article 21 of the Constitution. This Hon'ble Court, in the celebrated case of **State of Rajasthan v. Balchand alias Baliai (1977 (4) SCC 308)**, laid down the fundamental principle that "bail is the rule and jail is the exception." The continued incarceration of the Petitioners, particularly in the context of allegations under a newly enacted and challenged Ordinance, necessitates a review by this Hon'ble Court to ensure that this fundamental principle is upheld.

Allegations under Section 498A of the Indian Penal Code are inextricably intertwined with the provisions of the Uppam Pradesh Anti-Conversion Ordinance. The FIR explicitly invokes this Ordinance, alleging an "unlawful conversion." Therefore, the legality and the very basis of the allegations leading to the denial of bail are directly linked to the constitutional validity of the Ordinance, which is the subject matter of the accompanying Writ Petition under Article 32. This interconnectedness provides a compelling reason for this Hon'ble Court to exercise its power under Article 136.

while bail is generally considered by the lower courts, this Hon'ble Court has entertained SLPs in bail matters where there are **exceptional circumstances** or where the order of the lower court suffers from a **patent illegality or perversity**. In the present case, the denial of bail based on allegations under a law whose constitutional validity is under serious challenge constitutes such an exceptional circumstance warranting the intervention of this Court.

The **potential for misuse** of the newly enacted Anti-Conversion Ordinance, as highlighted in the Writ Petition, adds another layer of concern. Allowing individuals to remain incarcerated based on allegations under a potentially unconstitutional law would be a grave injustice. This Hon'ble Court has a duty to prevent such injustices and to ensure that the personal liberty of citizens is not curtailed based on legally suspect provisions.

Therefore, My Lords, in the interest of justice, to safeguard the fundamental right to personal liberty, and to address the significant legal and constitutional questions arising from the denial of bail in the context of the challenged Ordinance, this Special Leave Petition under Article 136 is clearly maintainable and deserves to be heard by this Hon'ble Court. The Petitioners should not be made to suffer incarceration based on allegations under a law whose very validity is under scrutiny before this Hon'ble Court.