



HIGH COURT OF JUDICATURE AT ALLAHABAD

HABEAS CORPUS WRIT PETITION No. - 1079 of 2026

Kunwar Sultan Ali And 2 Others

.....Petitioner(s)

Versus

State Of U.P. And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Ali Bin Saif, Dinesh Kumar Yadav
Counsel for Respondent(s)	:	G.A., Mahipal Singh, Nripendra Pratap Singh

A.F.R.

Court No. - 73

HON'BLE SANDEEP JAIN, J.

1. Mr. Ali Bin Saif assisted by Mr. Kaif Hasan, Mr. Mohd. Abubakar, Mohd. Areeb Masood, Mr. Faraz Khan and Mr.Dinesh Kumar Yadav learned counsels have appeared on behalf of the petitioners and Sri Manish Goyal learned Additional Advocate General assisted by Sri Pankaj Saxena learned AGA have appeared on behalf of the State-respondent.

2. By order dated 30.07.2026, the State was directed to produce the corpus, Ms. Diya Bhatia @ Zoya Diya Bhatia and Anshu Bhatia @ Amina Anshu Bhatia, before this Court. In compliance with the said order, both the corpus were produced before the Court by Ms. Reeta Yadav, Inspector, Sri Manoj Kumar, S.I., Police Station Cyber Crime, Agra.

Statement of the Corpus

3. This Court interacted with the corpus, Ms. Anshu Bhatia @ Amina Anshu Bhatia, who stated that she is aged about 35 years, unmarried, and is highly educated, having obtained an M.Sc. and M.Phil. in Zoology, besides a B.Ed. degree. She further disclosed that she had also served as a Lecturer.

4. During the course of her interaction with the Court, the corpus stated, in clear and unequivocal terms, that in the year 2020, she voluntarily embraced Islam of her own free will and volition, with the sole object of attaining mental peace, spiritual fulfilment and inner solace. She categorically asserted that her decision to embrace Islam was the product of her own conscious, independent and informed choice and was neither actuated by any inducement, influence, coercion, undue persuasion nor any extraneous consideration whatsoever.

5. The corpus further stated that her decision to change her faith was taken consciously and voluntarily, notwithstanding the fact that the same was contrary to the wishes of her father, respondent No.4, Anil Kumar Bhatia. According to her, respondent No.4 had strongly opposed her decision and had, on several occasions, attempted to persuade and prevail upon her to renounce the faith which she had voluntarily adopted. Nevertheless, she remained steadfast in her decision and unequivocally affirmed before this Court that her choice to embrace Islam was entirely voluntary and represented the exercise of her own free will and individual autonomy.

6. She further stated that her conversion was not actuated by any unlawful, oblique or extraneous motive, nor was it undertaken for the benefit of any individual or organization. According to her, the conversion was a purely personal and spiritual decision flowing from the exercise of her freedom of conscience.

7. The corpus further disclosed that, after embracing Islam, she was forcibly confined by her father in the parental home against her expressed wishes and without her consent. She alleged that various coercive measures, including physical restraint, intimidation and sustained mental harassment, were employed with the avowed object of compelling her to renounce the faith which she had voluntarily adopted and to revert to Hinduism. According to the corpus, she was effectively deprived of her freedom of movement and was not permitted to leave the parental home or to lead her life in accordance with her own wishes and volition.

8. She further stated that such restraint was not merely incidental or temporary in nature, but continued for a prolonged period, thereby substantially curtailing and infringing upon her personal liberty and individual autonomy. She asserted that she remained under the unlawful and involuntary confinement of her father until she was ultimately produced before this Court pursuant to the directions issued in the present proceedings.

9. The corpus also stated that their passports, educational certificates, identity documents, bank passbooks, cheque books, conversion-related documents and other personal belongings continue to remain in the custody of respondent No.4.

10. This Court also interacted with the second corpus, Ms. Diya Bhatia @ Zoya Diya Bhatia, who disclosed that she is about 20 years of age, has completed her education up to the Intermediate level, and has attained majority. She stated that she had voluntarily embraced Islam in the year 2021 purely on account of her personal faith, conscience, mental peace and

spiritual solace, without any force, fraud, coercion, undue influence or allurement from any person whatsoever.

11. She further stated that her decision to convert to Islam was also opposed by her father, who thereafter unlawfully restrained her within the parental house against her wishes. According to her, she was deprived of her liberty and freedom of movement solely because of her decision to profess a religion different from that professed by her family. She also alleged that she had been produced before this Court directly from the illegal custody of her father.

12. Both the corpus, in their respective interactions with this Court, unequivocally and consistently stated that they had embraced Islam voluntarily, consciously and of their own free will, in the exercise of their individual choice, personal autonomy and freedom of conscience. They categorically denied that their decision to change their faith was occasioned or procured by force, fraud, coercion, undue influence, misrepresentation, inducement, allurement or any other form of compulsion, whether direct or indirect.

13. They further asserted that their decision to embrace Islam was not actuated by any extraneous, unlawful or pecuniary consideration, nor was it intended to advance, promote or facilitate the interests of any particular individual, institution or organisation. According to them, their respective decisions were the outcome of their own independent and conscious exercise of the freedom of conscience and personal faith and were founded solely upon their sincerely held spiritual beliefs and religious convictions. They further maintained that their conversion was entirely personal in character and was neither designed nor intended to further, facilitate or serve any unlawful activity or ulterior purpose.

14. The corpus further submitted that, being major women possessing full legal capacity and individual autonomy, they are constitutionally entitled to exercise their freedom of conscience and to choose, profess and practise a religion according to their own faith, belief and conviction. They asserted that such freedom necessarily encompasses the concomitant right to determine their religious identity and, where so chosen voluntarily and conscientiously, to change or renounce a particular faith and embrace another.

15. According to the corpus, such freedom of conscience and religious choice finds express constitutional protection under Article 25 of the Constitution of India and constitutes an integral facet of the broader guarantee of life, personal liberty, dignity and individual autonomy embodied in Article 21 of the Constitution. They contended that the freedom to make such an intensely

personal choice, free from coercion, undue influence or external interference, is intrinsic to the right of an individual to live with dignity and to shape the course of her life in accordance with her own conscience, beliefs and considered choices.

16. They, therefore, submitted that, being major and competent individuals, their voluntary decision with regard to their faith and religious identity cannot ordinarily be subjected to parental, societal or other extraneous control, so long as such exercise of their constitutional freedoms is not vitiated by force, fraud, coercion, undue influence, inducement or any other legally impermissible circumstance.

17. They further submitted that they have not committed any act constituting an offence under any law for the time being in force. Consequently, their father had no legal authority to confine them within the parental home or to deprive them of their liberty merely because he disapproved of their decision to embrace Islam. It was, therefore, urged that they are entitled to be set at liberty forthwith and permitted to reside at a place and with a person of their own choice without any interference from their father or any other person, including State and its functionaries.

Submissions on behalf of the respondent State of Uttar Pradesh

18. Shri Manish Goyal learned Additional Advocate General appearing on behalf of the State, assisted by Sri Pankaj Saxena learned AGA vehemently opposed the maintainability of the instant habeas corpus petition.

19. It was submitted that the assertion of the corpus that they had voluntarily embraced Islam is wholly misconceived, factually untenable and contrary to the material collected during the course of investigation. Learned Senior Counsel appearing for the State contended that respondent No.4, the father of the corpus, had lodged Case Crime No. 228 of 2025 at Police Station Sadar Bazar, District Agra, alleging that both the corpus had been subjected to forcible and deceitful conversion from Hinduism to Islam.

20. Learned Senior Counsel further submitted that, initially, the First Information Report was registered for an offence punishable under Section 87 of the Bharatiya Nyaya Sanhita, 2023. However, upon further investigation and on the basis of the material and evidence subsequently brought on record, the investigating agency found the ingredients of additional offences to be prima facie attracted. Consequently, Sections 61(2), 111(3), 111(4) and 152 of the Bharatiya Nyaya Sanhita, 2023, along with Sections 3/5(1) and 5(2) of the Uttar Pradesh Prohibition of Unlawful Conversion of Religion Act, 2021, were incorporated in the case.

21. It was, thus, vehemently urged that the subsequent incorporation of the aforesaid penal provisions, pursuant to the material emerging during investigation, demonstrates that the allegation of voluntary conversion cannot be accepted at its face value and requires to be examined in the light of the entire evidentiary material collected by the investigating agency.

22. Learned Senior Counsel submitted that the present matter transcends the realm of an ordinary dispute concerning the personal liberty of two individuals. According to him, the alleged conversion forms part of a larger and organised conspiracy having far-reaching ramifications upon the sovereignty, integrity and unity of the nation. It was contended that the investigating agency has unearthed material indicating the involvement of organised persons acting pursuant to a well-orchestrated design aimed at disturbing the social fabric of the country through unlawful religious conversions.

23. It was further argued that the present writ petition has been instituted under the guise of seeking enforcement of the personal liberty of the corpus, whereas, in substance, its real object is to facilitate and protect the execution of an unlawful design which is presently under investigation. Learned Senior Counsel submitted that the Court, while exercising its extraordinary jurisdiction under Article 226 of the Constitution of India, ought not to lose sight of the larger public interest and national security concerns which are intrinsically involved in the matter.

24. It was next submitted that the investigating agency has also collected material suggesting the involvement of foreign entities and external influences in the alleged conversion process. According to the learned Senior Counsel, the investigation is still in progress and the material collected thus far prima facie discloses that the conversion was not merely an exercise of personal faith but formed part of a broader organised activity. It was, therefore, contended that permitting the corpus to leave the custody of their father at this stage may seriously prejudice the ongoing investigation and frustrate the object sought to be achieved by the criminal proceedings.

25. Learned Senior Counsel further submitted that the corpus have been projected as victims in the aforesaid criminal case. If they are permitted to reside with persons who are accused in the said criminal proceedings or with persons connected therewith, there exists every likelihood that the prosecution would be seriously prejudiced, material witnesses may be influenced, and the fair administration of criminal justice may be adversely affected. Such a consequence, according to the learned Senior Counsel, would amount to permitting the constitutional jurisdiction of this Court to be invoked for defeating the due process of law.

26. It was further contended that the rights guaranteed under Articles 21 and 25 of the Constitution of India are not absolute in nature and remain subject to reasonable constitutional and statutory limitations. It was submitted that where the exercise of such rights has the potential to adversely affect public order, social harmony or national interest, the State is not only competent but duty-bound to regulate the exercise thereof in accordance with law.

27. Learned Senior Counsel also contended that although the corpus have asserted before this Court that they voluntarily embraced Islam, the pleadings contained in the writ petition and the material collected during investigation indicate otherwise. According to him, the circumstances surrounding the alleged conversion raise serious questions regarding its voluntariness and legality, which cannot be ignored while exercising extraordinary jurisdiction under Article 226 of the Constitution.

28. It was further submitted that the alleged conversion has neither been effected in accordance with the mandatory requirements prescribed under the Uttar Pradesh Prohibition of Unlawful Conversion of Religion Act, 2021, nor has it been shown to be in conformity with the accepted legal procedure governing conversion under Muslim personal law. Therefore, unless the legality and validity of the alleged conversion certificates relied upon by the petitioners are duly examined by a competent forum, no right flowing therefrom can be recognised or enforced by this Court in the present habeas corpus proceedings.

29. Developing the aforesaid submissions, learned Senior Counsel urged that while interpreting the scope of Articles 21 and 25 of the Constitution, the Court must also bear in mind the constitutional values embodied in the Preamble to the Constitution of India, which emphasises the preservation of the unity, integrity and fraternity of the nation. According to him, an isolated interpretation of Articles 21 and 25, divorced from the broader constitutional framework, may result in serious miscarriage of justice and adversely affect the larger public interest.

30. Lastly, it was submitted that the present writ petition has been deliberately instituted under the cloak of seeking immediate release of the corpus, whereas its true object is to confer an indirect advantage upon the accused persons involved in the aforesaid criminal case. It was, therefore, urged that this Court ought to decline to exercise its extraordinary discretionary jurisdiction under Article 226 of the Constitution of India, keeping in view the larger interest of justice, public order and national interest.

Submissions on behalf of the Petitioner

31. Per contra, learned counsel for the petitioners submitted that the sole question requiring determination in the present habeas corpus petition is whether the corpus, who are admittedly major women, have been unlawfully deprived of their personal liberty and detained by their father in collusion and connivance with the State, against their free will. It was contended that the Court, while exercising its jurisdiction under Article 226 of the Constitution of India, is concerned only with the legality of the detention of the corpus and not with the merits of the criminal investigation or the validity of their religious conversion.

32. Learned counsel submitted that both the corpus are majors and are, therefore, fully competent in law to make independent decisions concerning every aspect of their lives, including their choice of religion, residence and association. It was argued that the freedom of conscience and the right freely to profess, practise and propagate religion constitute fundamental rights guaranteed under Article 25 of the Constitution of India, whereas the right to choose one's place of residence and the person with whom one desires to reside forms an inseparable component of the right to life and personal liberty guaranteed under Article 21 of the Constitution.

33. It was further submitted that the apprehensions expressed on behalf of the State regarding the alleged impact of the conversion upon the sovereignty, integrity and unity of the nation are wholly speculative, unsupported by any cogent material and beyond the scope of adjudication in the present proceedings. Learned counsel submitted that he is unable to comprehend as to how the voluntary conversion of two adult women from one faith to another could, by itself, pose any threat to the sovereignty or integrity of the country.

34. It was next contended that the doctrine of constitutional morality, sought to be invoked by the State, has no application to the facts of the present case. According to the learned counsel, once the Constitution expressly guarantees freedom of conscience and the right to profess and practise a religion under Article 25, such right cannot be diluted by invoking abstract notions of constitutional morality, particularly when the corpus have unequivocally asserted that their decision was voluntary and founded upon their personal beliefs.

35. Learned counsel further submitted that the corpus have merely been shown as victims in Case Crime No. 228 of 2025 and are not accused of having committed any criminal offence. Consequently, the State has no legal justification to oppose their release from the alleged illegal confinement of their father. The pendency of a criminal investigation, according to the learned counsel, cannot authorise the continued deprivation of the personal liberty of

adult women who are not accused in the said proceedings.

36. It was also contended that the apprehensions expressed by the learned Senior Counsel for the State regarding the possible prejudice to the criminal investigation are wholly misconceived and legally untenable. Such speculative considerations, it was urged, cannot override the cherished fundamental rights guaranteed to the corpus under the Constitution of India.

37. Learned counsel submitted that the interaction of the corpus with this Court leaves no manner of doubt that they have been unlawfully confined by their father in collusion and connivance with the State, solely because they exercised their independent choice to embrace a different religion. Such detention, it was argued, is wholly without authority of law and constitutes a direct infringement of their fundamental rights guaranteed under Articles 21 and 25 of the Constitution.

38. In support of the aforesaid submissions, learned counsel placed reliance upon judgment of the Hon'ble Supreme Court in the case of ***Rajendra Bihari Lal & another Vs. State of U.P. & others reported in 2025 INSC 1249*** and ***Shafin Jahan Vs. Asokan K.M. & others reported in (2018) 16 SCC 368*** recognising the autonomy of adult individuals to make independent decisions regarding matters of faith, conscience, marriage and residence, and submitted that the constitutional courts are under an obligation to protect such autonomy against any form of illegal restraint.

39. I have heard learned counsel for the parties at length and have carefully perused the material available on record.

Scope of the writ of habeas corpus

40. The Apex Court in the case of ***Home Secretary(Prison) and Others vs. H. Nilofer Nisha (2020) 14 SCC 161*** while elucidating the scope, ambit and object of the writ of habeas corpus, held as under:-

*"13. It is a settled principle of law that **a writ of habeas corpus is available as a remedy in all cases where a person is deprived of his/her personal liberty. It is processual writ to secure liberty of the citizen from unlawful or unjustified detention whether a person is detained by the State or is in private detention.** As Hidayatullah, J. (as he then was) held: (SCC p. 1630, para 12)*

"12. ... The writ of habeas corpus issues not only for release from detention by the State but also for release from private detention" [Mohd. Ikram Hussain v. State of U.P., AIR 1964 SC 1625 : (1964) 2 Cri LJ 590] .

At the same time, the law is well established that a writ of habeas corpus will not lie and such a prayer should be rejected by the Court where detention or imprisonment of the person whose release is sought is in accordance with the decision rendered by a court of law or by an authority in accordance with law.

14. According to Dicey,

“if, in short, any man, woman, or child is, or is asserted on apparently good grounds to be, deprived of liberty, the Court will always issue a writ of habeas corpus to anyone who has the aggrieved person in his custody to have such person brought before the Court, and if he is suffering restraint without lawful cause, set him free.” [A.V. Dicey, Introduction to the Study of the Law of the Constitution, Macmillan and Co. Ltd., p. 215 (1915).]

15. In Halsbury's Laws of England, a writ of habeas corpus is described as “a remedy available to the lowliest subject against the most powerful” [Halsbury's Laws of England (4th Edn.), Vol. 11, para 1454, p. 769.] . It is a writ of such a sovereign and transcendent authority that no privilege of person or place can stand against it [V.G. Ramachandran's Law of Writs, revised by Justice C.K. Thakker & M.C. Thakker, Eastern Book Company, p. 1036, 6th Edn. (2006).] .

16. **A writ of habeas corpus can only be issued when the detention or confinement of a person is without the authority of law.** Though the literal meaning of the Latin phrase habeas corpus is “to produce the body”, over a period of time production of the body is more often than not insisted upon but legally it is to be decided whether the body is under illegal detention or not. Habeas corpus is often used as a remedy in cases of preventive detention because in such cases the validity of the order detaining the detenu is not subject to challenge in any other court and it is only writ jurisdiction which is available to the aggrieved party. The scope of the petition of habeas corpus has over a period of time been expanded and this writ is commonly used when a spouse claims that his/her spouse has been illegally detained by the parents. This writ is many times used even in cases of custody of children. **Even though, the scope may have expanded, there are certain limitations to this writ and the most basic of such limitation is that the Court, before issuing any writ of habeas corpus must come to the conclusion that the detenu is under detention without any authority of law.”**

(emphasis supplied)

41. The Apex Court in the case of **Sonni Gerry vs. Gerry Douglas (2018) 2 SCC 197 (By three Judges)** while dealing with a situation where a major daughter had expressed her clear intention to reside independently of her parents, held as under:

"10. It needs no special emphasis to state that attaining the age of majority in an individual's life has its own significance. She/He is entitled to make her/his choice. The courts cannot, as long as the choice remains, assume the role of parens patriae. The daughter is entitled to enjoy her freedom as the law permits and the court should not assume the role of a super guardian being moved by any kind of sentiment of the mother or the egotism of the father. We say so without any reservation."

42. Similarly, a Division Bench of the High Court of Madhya Pradesh in the case of **Urmila Jharia vs. The State of Madhya Pradesh 2026 SCC OnLine MP 23120** while relying on the judgment of the Apex Court in the case of **Sonni Gerry** (supra), held as under:-

"4. It is by now well settled that once a person attains the age of majority, she is entitled to live wherever she wishes and with whomsoever she wishes, and the writ of Habeas Corpus is maintainable only where it is shown that the corpus is under illegal or unlawful detention or custody. Once it emerges from the interaction with the corpus that a major individual is residing at a place of her own free will and is not under any illegal restraint, no direction can be issued by a Constitutional Court to hand over her custody to any other person, including her parents, merely because such person may be aggrieved by her choice.

5. The Supreme Court, in *Soni Gerry v. Gerry Douglas*, Contempt Petition (Civil) No. 1606/2017 in SLP(C) No. 18761/2011, decided on 5-1-2018, while dealing with a similar situation where a major daughter had expressed her clear intention to reside independently of her parents, has held thus:

"6. It needs no special emphasis to state that attaining the age of majority in an individual's life has its own significance. She/he is entitled to make her/his choice. The Courts cannot, as long as the choice remains, assume the role of parens patriae. The daughter is entitled to enjoy her freedom as the law permits and the Court should not assume the role of a super guardian being moved by any kind of sentiment of the mother or the egotism of the father. We say so without any reservation."

7. The aforesaid enunciation of law squarely applies to the facts of the present case. The corpus, has been produced before this Court and has, in the course of interaction, unhesitatingly and voluntarily expressed her wish to reside with Respondent 5. She has attained majority and is not shown to be under any illegal custody or detention. In such circumstances, this Court, exercising jurisdiction under Article 226 of the Constitution, cannot issue any direction contrary to her expressed free will, nor can it compel her to reside with the

petitioner against her wishes."

43. A Division Bench of the Kerala High Court again in the case of ***Rajamohan MS vs. State of Kerala and Others 2009 SCC OnLine Ker 6330*** held that an adult major woman is entitled to exercise her decisional autonomy and cannot be kept in the custody or confinement of her parents against her wishes merely on the basis of parental authority. It was observed that parental authority may extend to advice, counselling and guidance, but cannot justify restraint or detention of an adult woman against her will. The Court further held that, where the voluntariness of the alleged detainee is in doubt, an appropriate opportunity may be afforded to her for reflection; however, her ultimate choice and decisional autonomy must be respected. The relevant paras are quoted hereinafter:-

"14. It is next contended that the 6th respondent being the father of the alleged detainee, has an unbridled right to keep her "in custody". The keeping of an adult major woman in the custody of her parent even against her will and desire will not amount to improper restraint or detention/confinement as to justify invocation of the jurisdiction under Article 226 of the Constitution, contends the learned counsel for the 6th respondent strenuously. The contention of the learned counsel for the 6th respondent virtually is that parental authority is sufficient to justify such "custody" even against the will and wishes of the detainee.

15. We are afraid that such a general principle of law cannot be accepted. A person who has attained majority, is in the eye of law, a person and a citizen entitled to all rights and privileges under the Constitution. There can be no question of an adult major woman being kept in the "custody" of anyone else against her wishes, desire and volition. Even if it be the parents, such custody cannot in the absence of better reasons be justified. There is no contention that she suffers from any debility which obliges her to be in the "custody" of any other. An adult major woman residing with her parents or husband cannot be held to be in the "custody" of such parent or husband as to deny to her, her rights to decisional autonomy and to decide what is best for her. Parental authority would certainly extend until a child attains majority. But, thereafter, though the parent and the child may be residing together, it can never be held that such child is in the "custody" of the parent. An adult major woman is not a chattel. The theory that until marriage a woman must be under the custody and confinement of her father and thereafter in the custody and confinement of her husband cannot possibly be accepted in this era. Such an adult person is certainly entitled to take decisions which affect her. Parental authority or

matrimonial authority will not at any rate give right to such parent or husband to keep such woman under restraint, confinement or detention against her will. The parent may feel that he has the monopoly for taking correct decisions which concern his daughter, but that impression of a doting patriarchal parent cannot blindly be accepted and swallowed by a Court. The parental authority may extend to advice, counsel and guidance. But certainly, it cannot extend to confinement, detention or improper restraint against the wishes and volition of the adult major daughter. Right to take decisions affecting her will certainly have to be conceded to her even assuming that, decisions taken may at times or in the long run prove to be not wise or prudent.

16. In this context, the learned counsel for the 6th respondent places reliance on two decisions of the earlier Division Benches of this Court in *Prasadhkumar v. Ravindran* (1992 (1) KLT 729) and *Sreekesh v. Mohammed Asharaf* (2003 (1) KLT 397).

17. We have been taken through the decisions in detail. We are unable to agree that they lay down a proposition that under no circumstances, when there is an allegation that parental authority is invoked to justify improper restraint or confinement/detention powers under Article 226 cannot be invoked. It depends on the facts of each case. Merely because beneficent parental authority is exercised over an adult child, this Court will not invoke its jurisdiction under Article 226 of the Constitution. Sagacity and judicial wisdom are required to identify the fit cases in which such jurisdiction can, need or need not be invoked. The observations in those decisions will have to be understood carefully and cautiously. It would be myopic and obscurantist to understand those observations as sufficient to concede to the parent a right to deny liberty and freedom to his adult daughter and to move her out of the country against her will to keep her away from the Court before which proceedings are initiated. We are unable to so understand those observations. Home and parental authority are not out of bounds for a constitutional court while performing its duty to translate the constitutional promise of freedom and liberty and while responding to the prayer of a citizen who has come to court complaining about negation of such rights, in exercise of his fundamental constitutional right to move the court for enforcement of such right.

18. **This Court comes across many such cases of alleged detentions/confinement/compulsive restraint placed on adult daughters by parents. We have taken a consistent stand that the decisional autonomy of such an adult daughter will have to be respected. An adult woman cannot be treated as chattel by this Court. Her rights as an equal citizen will have to be respected and cannot be denied. In cases where we feel that the decision of such alleged detainees does not appear to be voluntary and genuine, we resort to the course of granting them time to**

reflect, contemplate and ponder. We give them opportunity to be accommodated in neutral venues for some period to facilitate rational and dispassionate evaluation - sometimes for long periods. We give parents opportunity to counsel their children during such period. But ultimately, we do respect the decisional autonomy of such adult children. We are convinced that, that is the proper course to be followed in all cases. To do otherwise would simply be denial of human rights of an adult woman to take decisions affecting her future. That would certainly be denial of the right to life guaranteed under Article 21 of the Constitution of India. The mere fact that the decision may turn out to be incorrect or bad does not justify the denial of the right to take a decision. We do not permit our concepts of what is right and good for them to override their own assessment of what is right and good for them. We do not permit the concept of others (including parents) of what is right and good for them to override their own concepts. Concept of right and good may vary with the times. This generation's concept of right and wrong may not find acceptance with the next. No generation or parent can claim infallibility and enforce its/his concept of right and wrong on the succeeding. Suffice it to say that we do not agree with the learned counsel that Prasadhkumar and Sreekesh (supra) concede to the parents any unbridled rights to usurp the decisional autonomy of their adult daughters and keep them in "custody" against their desire in exercise of their parental authority or duty. We do not agree that the said decisions lay down that this Court cannot exercise jurisdiction under Article 226 of the Constitution of India in such a situation. We do not agree that the mere fact that the petitioner's marriage with the alleged detainee may not be strictly legal is sufficient to deny relief. At least it can be said that in the present era of social and societal development in this State such understanding of the dictum is impermissible. In the peculiar facts of those cases and to cater to the interests of justice in such situations, the Courts had followed such courses while considering invocation of the jurisdiction under Article 226."

(emphasis supplied)

44. A Division Bench of the Kerala High Court in the case of **Joju George and Others vs. State of Kerala and Others 2026:KER:27190**, held as under:-

"4. The writ of Habeas Corpus is a writ that provides an extraordinary remedy which should not be permitted unless ordinary remedies have already been exhausted and proven to be ineffective. It is a discretionary remedy in the sense that the High Court has a discretion not to exercise the jurisdiction

depending on the facts of the case. That said, it is trite that once the High Court finds that the detention alleged in the writ petition is illegal, the writ of Habeas Corpus would become available to the detenu as of right and cannot be withheld on the court's discretion [Kanu Sanyal v. District Magistrate, Darjeeling - [AIR 1973 SC 2684]] and Somprabha Rana and others v. State of Madhya Pradesh and others - [(2024) 9 SCC 382]. The United Kingdom Supreme Court in Rahamtullah v. Secretary of State – [(2013) 1 All ER 574] observed that an applicant for a writ of Habeas Corpus must demonstrate that the respondent is in actual physical control over the body of the person who is the subject matter of the writ, or that there are reasonable grounds on which it may be concluded that the respondent will be able to assert that control. **It is trite therefore that except in the cases of minors or persons otherwise incapacitated to give their consent in relation to matters affecting their life, this Court would have to look at cases where the alleged detenu is above the age of majority with due circumspection, for it cannot ignore the individual autonomy that a citizen of this country enjoys when it comes to exercise of his or her fundamental rights under the Constitution. As was observed by the Supreme Court in Navtej Singh Johar and others v. Union of India - [AIR 2018 SC 4321], “autonomy is individualistic. Under the autonomy principle, the individual has sovereignty over his/her body. He/she can surrender his/her autonomy willfully to another individual and their intimacy in privacy is a matter of their choice. Such concept of identity is not only sacred but is also in recognition of the quintessential facet of humanity in a person's nature. The autonomy establishes identity and the said identity, in the ultimate eventuate, becomes a part of dignity in an individual.”** While observing as above, in the context of determining the legality of one's choice in matters of sexual orientation, the Supreme Court was only following the general principle that it had already laid out in the earlier decisions in K.S. Puttaswamy and another v. Union of India and others - [(2017) 10 SCC 1] and Common Cause (A Registered Society) v. Union of India and another - [(2018) 5 SCC 1]. In Puttaswamy [supra], **the court observed that “the autonomy of the individual is the ability to make decisions on vital matters of concern to life. The intersection between one's mental integrity and privacy entitles the individual to freedom of thought, the freedom to believe in what is right, and the freedom of self-determination. The family, marriage, procreation and sexual orientation are all integral to the dignity of the individual.”** In Common Cause [supra], the court went on to observe that **“our autonomy as persons is founded on the ability to decide on what to wear and how to dress, on what to eat and on the food that we share, on when to speak and what we speak, on the right to believe or not to believe, on whom to love and whom to partner, and to freely decide on**

innumerable matters of consequence and detail to our daily lives.” The strength of our Constitution was therefore found to lie in the guarantee which it affords under Article 21 thereof that each individual will have a protected entitlement in determining, inter alia, what to believe or what not to believe.

5. In *Shafin Jahan v. Asokan K.M. and others* - [(2018) 16 SCC 368], the Supreme Court, while reversing a judgment of this Court, observed **that the superior courts, when they exercise their jurisdiction, parens patriae do so in the case of persons who are incapable of asserting a free will such as minors or persons of unsound mind. The exercise of that jurisdiction should not transgress into the area of determining the suitability of partners to a marital tie, for that decision rests exclusively with the individuals themselves. It was held that neither the state nor society can intrude into that domain and the strength of our Constitution lies in its acceptance of the plurality and diversity of our culture. As upholders of constitutional freedoms, it is the duty of the court to safeguard these freedoms that are recognised in citizens, and courts are duty bound not to swerve from the path of upholding our pluralism and diversity as a nation.**

(emphasis supplied)

Analysis

45. This Court has also interacted independently with both the corpus. Their responses were spontaneous, coherent and unequivocal. Nothing emerged during the course of such interaction to indicate that either of them was acting under coercion, fear, inducement or undue influence. On the contrary, both the corpus consistently asserted that they had voluntarily embraced Islam as a matter of personal faith and conscience.

46. It is not in dispute that both the corpus are major women possessing full legal capacity to take decisions concerning their lives. Once an individual attains majority, the Constitution recognises her autonomy to take decisions relating to faith, belief, residence, association and every other facet of personal liberty, subject only to restrictions sanctioned by law.

47. Article 25 of the Constitution guarantees to every individual the fundamental freedom of conscience and the right freely to profess, practise and propagate religion. The expression “freedom of conscience” necessarily encompasses the right of a competent adult to adopt, renounce or change her faith in accordance with her own free will, belief and conviction. Such a choice is an essential facet of individual autonomy, dignity and personal liberty,

protected not only under Article 25 but also under Article 21 of the Constitution. Neither the State nor the family can ordinarily dictate or interfere with such an intensely personal decision, except within the confines of constitutionally permissible restrictions and authority of law.

48. It is equally true that the Uttar Pradesh Prohibition of Unlawful Conversion of Religion Act, 2021, which came into force with effect from 27.11.2020, prescribes the statutory framework governing unlawful religious conversions and provides the procedure to be followed in cases where conversion from one religion to another takes place.

49. However, this Court is of the considered opinion that the vires of the aforesaid enactment have not been challenged in the present writ petition. Likewise, the legality or validity of the alleged conversion of the corpus is not the subject matter of adjudication in these habeas corpus proceedings. Any issue concerning compliance or non-compliance with the provisions of the Act of 2021 falls within the domain of the competent authority or the court having jurisdiction to adjudicate such questions in accordance with law.

50. Even assuming, for the sake of argument, that the alleged conversion has not been effected strictly in accordance with the procedure contemplated under the Act of 2021, such an assumption, by itself, would not authorise the continued confinement of two adult women by their father against their wishes. The legality of the conversion and the legality of their detention constitute two distinct and independent issues. The former may be examined in appropriate proceedings before the competent forum, the latter falls squarely within the jurisdiction of this Court while exercising its extraordinary writ jurisdiction in a petition for habeas corpus.

51. The principal contention advanced on behalf of the State is that the alleged conversion of the corpus from Hinduism to Islam forms part of a larger conspiracy having the potential to threaten the sovereignty, integrity and unity of the nation. This Court is unable to persuade itself to accept the aforesaid submission.

52. Except for a broad assertion founded upon the allegations contained in the First Information Report and the pendency of investigation, no material has been placed before this Court to demonstrate that the voluntary exercise of religious choice by the corpus, by itself, constitutes a threat to the sovereignty, integrity or security of the country. Mere apprehensions, however serious they may appear, cannot substitute legally admissible material while adjudicating upon the fundamental rights of citizens.

53. The statements made by both the corpus before this Court are

unequivocal. They have categorically stated that they embraced Islam voluntarily, out of their own free will, in pursuit of spiritual satisfaction, peace of mind and freedom of conscience. There is nothing on record to indicate that, while making their statements before this Court, they were acting under coercion, undue influence, fraud, allurements or any other vitiating circumstance.

54. This Court is, therefore, unable to discern any material warranting an inference that the corpus have acted with any oblique motive or have been reduced to mere instruments in the hands of any individual or organisation pursuing an unlawful agenda. Such an inference cannot legitimately be drawn on the basis of conjectures, surmises or allegations which are yet to be tested and established before the competent criminal court.

55. The criminal investigation arising out of Case Crime No. 228 of 2025 shall, undoubtedly, proceed strictly in accordance with law and uninfluenced by any observation made in the present proceedings. However, the mere pendency of a criminal investigation cannot, by itself, furnish a lawful justification for curtailing the liberty of adult citizens, particularly when they are not subject to any judicial or other lawful order of detention.

56. Being major women, the corpus possess an inviolable constitutional right to determine the course of their own lives. Such decisional autonomy necessarily encompasses the right to choose their faith, determine their place of residence and decide with whom they wish to reside. These freedoms constitute integral facets of the right to life and personal liberty under Article 21 and the freedom of conscience guaranteed under Article 25 of the Constitution of India.

57. It is well settled that neither parents nor other family members can arrogate to themselves the authority to dictate the personal choices of a major individual. Upon attaining majority, parental authority yields to constitutional liberty and individual autonomy. Any restraint upon the movement or liberty of such person, except lawful authority, would constitute illegal confinement and amount to a direct infringement of the fundamental rights guaranteed by the Constitution.

58. From the interaction of this Court with the corpus, it stands conclusively established that both of them were unwillingly confined in their parental home and were prevented from exercising their independent choice solely because of their decision to embrace a different faith. Such confinement cannot receive the imprimatur of law and is manifestly violative of their constitutional rights.

59. Accordingly, this Court is satisfied that the detention of the corpus by

respondent No.4 in collusion and connivance of the State was wholly illegal and without any sanction of law. Consequently, this Court, in exercise of its extraordinary jurisdiction under Article 226 of the Constitution of India, is duty-bound to restore their liberty.

Determination of compensation for unlawful detention of the corpus

60. It is manifest from the undisputed factual matrix and the unequivocal statements made by the corpus before this Court that respondent No.4, despite being the father of the corpus, possessed no semblance of legal authority to curtail their liberty or to subject them to confinement against their free and informed consent. The conduct of respondent No.4 in forcibly confining two major women within the precincts of the parental home, solely on account of their independent decision to embrace a faith of their choice, constitutes a flagrant affront to the Rule of Law and a gross, deliberate and continuing infringement of the inviolable guarantees enshrined under Articles 21 and 25 of the Constitution of India. Such unlawful deprivation of liberty has not merely curtailed their physical freedom but has inflicted upon them profound mental anguish, emotional trauma, psychological suffering, social isolation and an irreparable assault upon their dignity, autonomy and freedom of conscience, which lie at the very heart of our constitutional order.

61. Equally disturbing is the conduct of the State and its instrumentalities. The State, which bears the highest constitutional obligation as the sentinel and protector of the life and liberty of every citizen, instead of securing the release of the corpus from their unlawful confinement, permitted the continuation of such illegal detention under the ostensible cover of the criminal proceedings initiated pursuant to Case Crime No. 228 of 2025. The record unmistakably reveals that the State machinery failed to discharge its constitutional obligations and, by its acts of omission and commission, lent tacit support to the continued deprivation of the fundamental rights of the corpus. Such executive inaction and constitutional indifference cannot receive judicial approbation and renders the State equally accountable in public law for the violation of the fundamental rights guaranteed to the corpus.

62. The Apex Court in the case of ***Rudul Sah v. State of Bihar & Another (1983) 4 SCC 141 (By 3 Judges)*** has authoritatively recognised and upheld the constitutional power of the Court to award monetary compensation for the violation of fundamental rights, particularly where such violation is attributable to the unlawful deprivation of personal liberty. The relevant para is quoted as under:-

"10... Article 21 which guarantees the right to life and liberty will be denuded

of its significant content if the power of this Court were limited to passing orders of release from illegal detention. One of the telling ways in which the violation of that right can reasonably be prevented and due compliance with the mandate of Article 21 secured, is to mulct its violators in the payment of monetary compensation. Administrative sclerosis leading to flagrant infringements of fundamental rights cannot be corrected by any other method open to the judiciary to adopt. The right to compensation is some palliative for the unlawful acts of instrumentalities which act in the name of public interest and which present for their protection the powers of the State as a shield. If civilisation is not to perish in this country as it has perished in some others too well known to suffer mention, it is necessary to educate ourselves into accepting that, respect for the rights of individuals is the true bastion of democracy. Therefore, the State must repair the damage done by its officers to the petitioner's rights. It may have recourse against those officers."

63. The Apex Court in the case of ***Nilabati Behera (Smt.) Alias Lalita Behera(Through The Supreme Court Legal Aid Committee) vs. State of Orissa and Others (1993) 2 SCC 746***, held as under:-

"34. The public law proceedings serve a different purpose than the private law proceedings. The relief of monetary compensation, as exemplary damages, in proceedings under Article 32 by this Court or under Article 226 by the High Courts, for established infringement of the indefeasible right guaranteed under Article 21 of the Constitution is a remedy available in public law and is based on the strict liability for contravention of the guaranteed basic and indefeasible rights of the citizen. The purpose of public law is not only to civilize public power but also to assure the citizen that they live under a legal system which aims to protect their interests and preserve their rights. Therefore, when the court moulds the relief by granting "compensation" in proceedings under Article 32 or 226 of the Constitution seeking enforcement or protection of fundamental rights, it does so under the public law by way of penalising the wrongdoer and fixing the liability for the public wrong on the State which has failed in its public duty to protect the fundamental rights of the citizen. The payment of compensation in such cases is not to be understood, as it is generally understood in a civil action for damages under the private law but in the broader sense of providing relief by an order of making 'monetary amends' under the public law for the wrong done due to breach of public duty, of not protecting the fundamental rights of the citizen. The compensation is in the nature of 'exemplary damages' awarded against the wrongdoer for the breach of its public law duty and is independent of the rights available to the aggrieved party to claim compensation under the private law in an action based on tort, through a suit instituted in a court of competent jurisdiction or/and prosecute the offender under the penal law.

35. This Court and the High Courts, being the protectors of the civil liberties of the citizen, have not only the power and jurisdiction but also an obligation to grant relief in exercise of its jurisdiction under Articles 32 and 226 of the Constitution to the victim or the heir of the victim whose fundamental rights under Article 21 of the Constitution of India are established to have been flagrantly infringed by calling upon the State to repair the damage done by its officers to the fundamental rights of the citizen, notwithstanding the right of the citizen to the remedy by way of a civil suit or criminal proceedings. The State, of course has the right to be indemnified by and take such action as may be available to it against the wrongdoer in accordance with law — through appropriate proceedings. Of course, relief in exercise of the power under Article 32 or 226 would be granted only once it is established that there has been an infringement of the fundamental rights of the citizen and no other form of appropriate redressal by the court in the facts and circumstances of the case, is possible....”

64. It is a settled principle of constitutional jurisprudence that where the inalienable right to life and personal liberty guaranteed under Article 21 is violated by an act of illegal or arbitrary detention, this Court, while exercising its extraordinary jurisdiction under Article 226 of the Constitution, is not powerless to fashion an appropriate public law remedy. The award of constitutional compensation has now become an integral facet of the constitutional remedial jurisprudence evolved by the Hon'ble Supreme Court to vindicate fundamental rights and to ensure that constitutional guarantees do not remain illusory or merely ornamental. Such compensation is neither punitive nor ex gratia; rather, it constitutes a public law remedy designed to redress the palpable violation of fundamental rights, uphold the majesty of the Constitution, preserve public confidence in the administration of justice, and enforce accountability upon those who have acted in derogation of constitutional mandates.

65. The present case discloses an exceptionally grave and egregious violation of constitutional rights. The corpus, despite being major, educated and legally competent women, were deprived of their liberty for a prolonged period commencing from the year 2021, solely because they exercised their constitutionally protected freedom of conscience and chose to profess a religion different from that professed by their family. Such prolonged and coercive confinement strikes at the very foundation of constitutional democracy, which recognises the autonomy of every adult individual as sacrosanct and beyond the reach of parental or societal control. The constitutional guarantee of personal liberty cannot be permitted to yield to familial disapproval, social orthodoxy or executive apathy.

66. This Court is, therefore, of the considered opinion that the present case warrants the grant of exemplary constitutional compensation. The gravity of the infringement, the prolonged and continuous deprivation of liberty, the severe emotional and psychological trauma endured by the corpus, and the manifest failure of the State machinery to protect their fundamental rights compel this Court to invoke its public law jurisdiction so as to ensure that the constitutional promise of liberty is translated into meaningful reality.

67. Before parting, this Court deems it necessary to reiterate that the Constitution does not confer upon parents a licence to incarcerate their major children merely because they disapprove of their faith, beliefs or personal choices. Constitutional rights cannot be eclipsed by parental authority, social morality or majoritarian sentiment. The liberty of an adult individual is inviolable, and any attempt to suppress that liberty by force or coercion invites the constitutional scrutiny of this Court and attracts appropriate public law consequences, including the award of monetary compensation for the infringement of fundamental rights.

68. It is, however, made clear that any observation made in the present judgment is confined solely to the adjudication of the issue of illegal detention of the corpus and shall not be construed as an expression on the merits of the criminal proceedings arising out of Case Crime No. 228 of 2025, or upon the legality or validity of the alleged religious conversion, which shall be examined independently by the competent court or authority in accordance with law, uninfluenced by any observation contained herein.

69. The writ petition is, accordingly, ***allowed*** in the aforesaid terms.

Reliefs Granted

70. Accordingly, the writ petition succeeds and is allowed with the following directions:-

1. Ms. Diya Bhatia @ Zoya Diya Bhatia and Ms. Anshu Bhatia @ Amina Anshu Bhatia are declared to be free to reside at any place and with any person of their own choice, without any interference from respondent No.4 or any other person or the State and its functionaries.

2. Respondent No.4 and the State of Uttar Pradesh are held jointly and severally liable for the unlawful deprivation of the fundamental rights of the corpus. Accordingly, they are directed to jointly pay compensation of Rs. 25,00,000/- (Rupees Twenty-Five Lakh only) to the corpus, which is to be equally divided between them, within a period of eight weeks from the date of this judgment. It shall, however, be open to the State Government, after

satisfying the aforesaid award, to recover 50% of the compensation from respondent No.4 and the remaining 50% from any delinquent public servant whose acts or omissions have contributed to the unconstitutional deprivation of the liberty of the corpus, strictly in accordance with law and after affording due opportunity of hearing.

3. Respondent No.4 shall not, directly or indirectly, interfere with the personal liberty, movement, residence, profession or religious choices of either of the corpus.

4. The State authorities, particularly respondent Nos.2 and 3, shall ensure that no interference is caused in the peaceful life and liberty of the corpus and, if so required, shall provide adequate protection in accordance with law.

5. Respondent No.4 is directed to hand over the passport, educational certificates, identity documents, bank passbooks, cheque books, conversion-related documents all such original documents and personal belongings to the corpus within **seven days** from today. In the event of any difficulty, respondent Nos.2 and 3 shall ensure due compliance with this direction in accordance with law.

August 6, 2026
Himanshu

(Sandeep Jain,J.)