

Bilkis Bano case

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What's in today's article?

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- News Summary: Bilkis Bano case
- Key highlights of the judgement

Why in news?

- The Supreme Court has struck down the remission granted by the Gujarat government to 11 convicts, who are out of jail, in the Bilkis Bano case.
- The apex court directed these convicts to report to jail authorities within two weeks.

Remission

- About
 - Remission is the complete ending of a sentence at a reduced point.

- Remission is distinct from both furlough and parole in that it is a reduction in sentence as opposed to a break from prison life.
- Constitutional Provisions
 - Both the President and the Governor have been vested with sovereign power of pardon by the Constitution.
 - Under Article 72, the President can grant pardons, reprieves, respites or remissions of punishment or suspend, remit or commute the sentence of any person convicted of any offence
 - (a) in all cases where the punishment or sentence is by a court Martial;
 - (b) in all cases where the punishment or sentence is for an offence against any law relating to a matter to which the executive power of the Union extends;
 - (c) in all cases where the sentence is a sentence of death
 - Under Article 161, a Governor can grant pardons, reprieves, respites or remissions of punishment, or suspend, remit or commute the sentence.
- Statutory power of remission
 - The Code of Criminal Procedure (CrPC) provides for remission of prison sentences. This is because prisons is a State Subject.
 - The CrPC is proposed to be replaced by the Bharatiya Nagarik Suraksha (Second) Sanhita.
 - The law has been passed by Parliament and has obtained the assent of the President, but is yet to come into force.
 - Under Section 432, the 'appropriate government' may suspend or remit a sentence, in whole or in part, with or without conditions.
 - Under Section 433, any sentence may be commuted to a lesser one by the appropriate government.
 - This power is available to State governments so that they may order the release of prisoners before they complete their prison terms.
- Guidelines to be followed while granting Remission
 - In 'Laxman Naskar v. Union of India' (2000) case, the Supreme Court laid down five grounds on which remission is considered:
 - Whether the offence is an individual act of crime that does not affect the society;
 - Whether there is a chance of the crime being repeated in future;
 - Whether the convict has lost the potentiality to commit crime;
 - Whether any purpose is being served in keeping the convict in prison; and
 - Socio-economic conditions of the convict's family.
 - Also, convicts serving life sentences are entitled to seek remission after serving a minimum of 14 years in prison.

Bilkis Bano Case

- About
 - In the aftermath of the Godhra riots in Gujarat in 2002, Bilkis Bano and her family were attacked by a group of people.
 - Bilkis was brutally gangraped and seven of her family members were murdered.

- Her case was taken up by the National Human Rights Commission (NHRC) and Supreme Court, which ordered an investigation by the CBI.
- Due to persistent death threats, the trial was moved out of Gujarat to Mumbai where charges were filed against these people.
- In January 2008, a special CBI court in Mumbai had sentenced the 11 accused to life imprisonment.
- Release of these convicts
 - In 2022, one of the convicts named Radheshyam Shah, after completing 15 years and four months of his life term, moved to the SC for early release.
 - In May 2022, the SC passed this case to the Gujarat government.
 - It asked the Gujarat government to consider Shah's application for premature release, as per the state's 1992 remission policy.
 - On August 15, 2022, the Gujarat government released all 11 convicts in the gangrape case under its remission policy.
 - However, this decision sparked a major public backlash, and prompted petitions from opposition MPs.
- Review petition by Bilkis Bano
 - Bilkis Bano in 2022 filed an appeal in the Supreme Court to review the decision of the Gujarat government ordering release of the 11 gangrape convicts.
 - The current judgement came in response to the review petition filed by the Bano.

News Summary

- The Supreme Court overturned the Gujarat government's decision to release the 11 convicts who raped Bilkis Bano and killed her family during the 2002 Gujarat riots.

Key highlights of the judgement

- The Gujarat government was not the appropriate government to pass the remission order as the trial was held in Maharashtra.
 - The exemption order lacks competence. Criminals can be released only by the state where they are tried.
 - The bench also held that the SC order of May 13, 2022 was obtained by fraud and suppression of facts.
 - Gujarat government should have filed a plea seeking review of the 2022 order stating they are not the competent government.
 - The Supreme Court came down heavily against its own judgment in May 2022.
 - In May 2022, the SC ruled that there cannot be a concurrent jurisdiction of two State governments on the issue of remission.
 - Premature release of a convict has to be considered in terms of the policy applicable in the State where the crime was committed
 - Hence, Gujarat government's remission policy was applied for the release of these convicts.
 - The rule of law must be preserved unmindful of the ripples of the consequences.
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Q1) What is Code of Criminal Procedure (CrPC)?

The Code of Criminal Procedure (CrPC) is a document that provides a procedure for the investigation of crime, the collection of evidence, and the determination of guilt or innocence. The CrPC also covers the arrest and detention of suspects, the conduct of trials, and the sentencing of convicted individuals.

Q2) What is Article 72 of the Indian Constitution?

Article 72 of the Indian Constitution gives the President the power to grant pardons, reprieves, respites, or remissions of punishment. The President can also suspend, remit, or commute the sentence of any person convicted of an offense.

Source: [Bilkis Bano case: Earlier order to decide remission application 'obtained by fraud and suppression of facts'](#)
[| Hindustan Times](#) | [NDTV](#) | [Indian Express](#) | [The Hindu](#)

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