



## SCs Direction on Remission

**For Prelims:** [Remission, Pardoning Power of the President, Article 72, President, Supreme Court, Article 161, Governor, Prison Act, 1894, Kehar Singh vs. Union of India \(1989\), Code of Criminal Procedure \(CrPC\).](#)

**For Mains:** SC Directions on Remission, Remission Rules in India and Related Constitutional and Legal Provisions.

[Source: TH](#)

### Why in News?

The **Supreme Court (SC)** issued **guidelines on remission**, directing states to **consider the premature release of prisoners under remission policies**, even **without a formal application**.

- This judgment, delivered in a *suo-motu* case initiated in **2021**, aims to **address prison overcrowding** while ensuring a **fair and non-discriminatory approach to remission**.
- **Latest SC Guidelines on Remission Policy (2025):**
  - States **must formulate a clear remission policy within 2 months**, ensuring **alignment with constitutional and judicial principles**.
  - **Remission criteria must be reasonable**, as upheld in the *Mafabhai Motibhai Sagar Case (2024)*.
  - Remission **cannot be revoked arbitrarily**, if conditions are violated, the state must **issue a notice with reasons** and **allow the convict to respond** before a final decision.

### Note

- As per [National Crime Records Bureau \(NCRB\)](#) data for 2022, India's prisons have a 131.4% occupancy rate, with 75.8% undertrials.
- As per **Prison Statistics in India Report (2022)**, **premature releases** rose from **2,321 (2020) to 5,035 (2022)**.

### What is Remission?

- **About:**
  - Remission refers to the **reduction of the duration of a prison sentence without altering the nature of the sentence**.
  - It allows a **convict to be released earlier than the original term** prescribed by the court, provided they **meet specific eligibility criteria**.

- **Constitutional Provisions:**
  - **Article 72** empowers the **President of India** to grant **pardons, reprieves, respites, or remissions** of punishment, or to **suspend, remit, or commute the sentence of any person** convicted of an offense under Union law or in cases involving military courts.
  - **Article 161** grants **similar powers to the Governor** for offenses under state laws.
  - **Article 32 & 226:** Enable the **SC and High Courts, respectively, to intervene in remission cases through writ jurisdiction.**
- **Statutory Provisions:**
  - **Section 473 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023** (earlier **Section 432 of the CrPC**): Grants state governments the power to remit sentences *at any time*, with or without conditions.
    - Non-compliance with conditions can lead to cancellation of remission and re-arrest without a warrant.
  - **Section 475 of BNSS** (earlier **Section 433A of CrPC**): Life convicts sentenced for offenses punishable by death cannot be released before completing 14 years of imprisonment.

## Key Terms

- **Pardon:** Completely absolves the convict, removing both **conviction and sentence**, along with **all associated punishments and disqualifications**.
- **Commutation:** Replaces a **punishment with a lesser one**, such as converting a death sentence to rigorous imprisonment.
- **Respite:** Grants a **reduced sentence considering special circumstances**, like physical disability or pregnancy of the convict.
- **Reprieve:** **Temporarily delays the execution of a sentence**, particularly the death penalty, **allowing time for the convict to seek pardon or commutation.**

## What are the Supreme Court Rulings Related to Remission?

- In ***Laxman Naskar v. Union of India (2000)***, the **Supreme Court (SC)** outlined **5 factors for remission: societal impact, crime severity, risk of recidivism, prison conduct, and potential for reintegration**, ensuring a **balanced approach to justice and public safety**.
- In ***Epuru Sudhakar v. State of Andhra Pradesh (2006)***, the SC ruled that **judicial review of remission orders is permissible** on grounds such as **non-application of mind, mala fide intent, reliance on extraneous or irrelevant considerations**, exclusion of relevant materials, or arbitrariness.
- In the ***State of Haryana vs. Mahender Singh (2007)***, the SC held that while remission is not a fundamental right of a convict, the State must exercise its executive power judiciously, considering each case based on relevant factors.
- In ***Sangeet & Anr. v. State of Haryana (2013)***, the SC held that **remission under Section 432 CrPC requires a convict's application and cannot be granted suo-motu** by the government.
- In ***Mohinder Singh v. State of Punjab (2013)***, the SC reaffirmed that **courts do not have the authority to grant remission on their own**, emphasizing that **remission must be initiated through a formal request**.
- In ***Union of India v. V. Sriharan (2015)***, the SC upheld **life imprisonment without remission until the convict's "last breath,"** deeming it an **alternative to the death penalty**.
- The SC, in 2024 quashed the **Gujarat government's remission order** for the 11 convicts in the ***Bilkis Bano case*** and **set aside its 2022 judgment** that had allowed Gujarat to decide their premature release.
  - It ruled that, as per **Section 432(7) of the CrPC**, the **"appropriate government"** for remission is where the **offender is sentenced, not where the crime occurred**. This principle was reaffirmed from ***V. Sriharan v. Union of India (2015)***.

- In ***Mafabhai Motibhai Sagar v. State of Gujarat (2024)***, the SC ruled that **remission conditions must be reasonable**, ensuring they are neither arbitrarily stringent nor vague.

#### Read More:

- [What are the Different Types of Pardoning Power?](#)
- [What are the Issues in Granting Remission?](#)

#### ***Drishti Mains Question:***

Differentiate between pardon, commutation, remission, reprieve, and respite under Indian law. How do these executive powers contribute to the principles of justice and reform?

### **UPSC Civil Services Examination, Previous Year Question (PYQ)**

#### **Mains:**

**Q.** Instances of the President's delay in commuting death sentences has come under public debate as denial of justice. Should there be a time specified for the President to accept/reject such petitions? Analyse. (2014)

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