

## Bilkis Bano Case

### Why in news?

The Supreme Court quashed the order of remission granted by the State of Gujarat in 2022 to 11 men sentenced to life imprisonment for the gangrape of Bilkis Bano and murder of her family during the 2002 Gujarat riots.

### What is the case about?

- Gujarat had turned violent after the Sabarmati train was burnt in **Godhra** on 27 February 2002 when 59 karsevaks were killed in the train.
- Fearing the outbreak of violence, then 5-month pregnant Bilkis Bano fled from her village with her three-and-a-half-year-old daughter and 15 other family members.
- They were attacked by about 20-30 people whereas Bilkis, her mother, and three other women were raped and brutally assaulted.
- Only Bilkis, a man, and a three-year-old survived the attack.
- Her case was taken up by the National Human Rights Commission (NHRC) and Supreme Court, which ordered an investigation by the CBI.

### TIMELINE OF THE BILKIS BANO CASE

- 2002** The gangrape and killings take place on March 3
- 2003** Trial court acquits the accused  
Supreme Court orders a CBI inquiry
- 2004** Accused arrested and trial shifted to Mumbai by the Supreme Court
- 2008** Eleven accused sentenced to life, nine are acquitted
- 2017** Bombay High Court dismisses appeals by the convicts
- 2019** Supreme Court upholds the High Court order
- MAY 2022** SC refers a plea for remission back to Gujarat government after Gujarat High Court rules that Maharashtra government is the competent authority to decide on remission
- AUG 2022** The 11 convicts are let off after a committee recommends remission of life sentence; remission order not shared till August 23

## What happened in the case?

- The accused in the case were arrested in 2004 and the trial was moved out of **Gujarat to Maharashtra** after Bilkis Bano received death threats.
- In 2008, the Special CBI Court sentenced 11 accused to **life imprisonment** on the charges of conspiring to rape a pregnant woman, murder and unlawful assembly under the Indian Penal Code.
- In 2017, the Bombay High Court dismissed the appeals of the convicts.
- In 2019, the Supreme Court upheld the High Court order and awarded compensation of Rs 50 lakh to Bilkis — the first such order in a case related to the 2002 riots.

## How were the convicts remitted?

*Remission means a reduction in sentence imposed on a person convicted of a crime.*

- **Gujarat High Court** - One of the convicts had approached the Gujarat High Court seeking remission of the sentence under **Sections 432 and 433 of the Code of Criminal Procedure**.

<b>Section 432(1) of CrPC</b>	<ul style="list-style-type: none"><li>• When any person has been sentenced to punishment for an offence, the <b>appropriate government</b> may, at any time, accept, suspend the execution of his sentence or remit the whole or any part of the punishment to which he has been sentenced.</li></ul>
<b>Section 433A of CrPC</b>	<ul style="list-style-type: none"><li>• If life imprisonment is imposed on conviction of a person for an offence for which death is one of the punishments provided by law, or where a death sentence imposed on a person has been commuted under Section 433 into life imprisonment, such person shall not be released from prison unless he had served <b>at least 14 years</b> of imprisonment.</li></ul>
<b>Section 435 of CrPC</b>	<ul style="list-style-type: none"><li>• The State government has to act after <b>consultation with the Central government</b> in cases investigated by agencies functioning under a Central Act.</li></ul>

- The court dismissed his plea while observing that the “**appropriate government**” to take a decision about his remission is **Maharashtra**, and not Gujarat.
- **Supreme Court** - He then filed a plea in the Supreme Court, pleading that he had been in jail for *over 15 years without remission* as of 1 April 2022.
- The apex court directed the **Gujarat government** to look into the issue of remission of his sentence.
- It also directed the Gujarat government to rely on the **1992 remission policy** that was in effect at the time of their conviction in 2008 and not the policy adopted in 2014 which is effective today.

<b>1992 Remission Policy</b>	<ul style="list-style-type: none"> <li>• Did not distinctly categorise convicts eligible or not eligible for early release from prison</li> </ul>
<b>2014 Remission Policy</b>	<ul style="list-style-type: none"> <li>• <b>Persons not eligible for remission</b> <ul style="list-style-type: none"> <li>• Prisoners investigated by the Delhi Special Police Establishment constituted under the Delhi Police Establishment Act, 1946</li> <li>• Prisoner convicted for murder with rape or gang rape</li> </ul> </li> </ul>

- The Bilkis Bano case was probed by the CBI, constituted under the Delhi Police Establishment Act and the convicts were sentenced on murder and gang rape charges.

### Laws available on remission

- **Articles 72 and 161 of the Constitution** - The President and Governors have the power to pardon, suspend, remit or commute a sentence passed by the courts (*Clemency power*).
- **Code of Criminal Procedure (CrPC)** - Since ***Prisons is a State subject***, State governments have powers under *Section 432 of the CrPC* to remit sentences by setting up a Sentence Review Board.
- In '***Laxman Naskar v. Union of India***' (2000) the SC laid down 5 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
  - Socio-economic conditions of the convict's family
- **Jail manuals** contain rules that allow certain days of remission in every month for good behaviour of convicts.

### What is the current Supreme Court judgement about?

- The Supreme Court said ***Gujarat was not the "appropriate government"*** and asked the Maharashtra government to consider the remission plea of the convicted men.
  - It pointed out that Section 432(7)(b) of CrPC clearly indicates that the ***State within which the offender is sentenced*** is the appropriate government to pass remission orders and not the one where the crime took place or where the convict was imprisoned.
- It also said that the Gujarat government's decision to grant remission to convicts was an instance of usurpation of jurisdiction and abuse of discretion.

- The court cautioned States from exercising the power of remission in an arbitrary fashion.
- It also directed the released convicts to report back to the jail authorities within 2 weeks.

### What does this mean?

- Through its ruling, the Supreme Court has allowed many to reaffirm their *faith in the law of the land and the rule of law*.
- It is a timely reiteration of the core principles that animate exercise of the power to grant remission — that it should be fair and reasonable and based on relevant parameters such as whether the crime involved affected society at large, whether the convict retained the potential for committing similar offences or is capable of reform.

### References

1. [Outlook India | Bilkis Bano Case](#)
2. [The Hindu | Bilis Bano Case](#)

