



UNDERTRAILS PRIOSNERS AND BNSS PROVISIONS: POLITY

NEWS: Union Home Minister Amit Shah emphasized the goal to release undertrial prisoners who have spent more than a third of their maximum prescribed sentence before Constitution Day (November 26).

WHAT'S IN THE NEWS?

- **Objective:** Ensure that prisoners who have completed a third of their possible sentence but haven't received justice are not kept in jail unnecessarily.

Section 479 of BNSS: Relaxed Bail Provisions

- **Definition:** The Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), introduced relaxed standards for bail for first-time offenders.
- **Detention Limit:** Under Section 479, undertrial prisoners not accused of offences punishable by death or life imprisonment must be released on bail after completing half of the maximum sentence for their offence.
- **First-Time Offender Clause:** For first-time offenders, bail eligibility is reduced to one-third of the maximum sentence. This applies only if they have no previous convictions and no pending cases.

WHAT THE DATA SHOW

5,73,220

Total prisoners

4,34,302

Undertrials

3 OUT OF 4

prisoners (75.8%)
were undertrials

59.7%

of undertrial inmates were from six states – Uttar Pradesh, (21.7%), Bihar (13.2%), Maharashtra (7.6%), Madhya Pradesh (6.2%), Punjab (5.6%), and West Bengal (5.4%)

65.2%

of undertrials were either illiterate (26.2%), or had received education till at most Class X (39.2%)

19.3% of undertrials were Muslim, 4.7% Sikh, more than the communities' respective shares in population (14.2% and 1.7% in 2011 Census)

20.9% of undertrial inmates were SCs, 9.3% were STs. Their shares in population are 16.6% and 8.6% respectively (2011 Census)

14.6% of undertrials had spent for 1-2 years, 7.8% 2-3 years, 6% 3-5 years, and 2.6% more than five years

40.7% increase in the number of undertrials in India since 2017, when their population stood at 3,08,718

Source: NCRB; data till December 31, 2022



Exclusions from Bail Eligibility

- **Multiple Cases:** Individuals involved in multiple offences or pending investigations for other cases are not eligible for this relaxed bail.
- **Conditions for First-Time Offenders:** The BNSS provision is specifically beneficial to those accused for the first time with no prior convictions.

Supreme Court's Role and Interpretation

- **Initial Observations:** The Supreme Court has been monitoring the state of prisons, addressing issues like overcrowding, since 2013.
- **Retrospective Application:** The Court ruled that the new provisions of Section 479 should apply retrospectively, benefiting cases registered before July 1, 2024.
- **State Accountability:** All states and Union Territories were instructed to provide data on eligible undertrials and steps taken to implement Section 479.
- **Delayed Compliance:** Only half of the states/UTs complied with the Court's order by the deadline.

Data Collection and Implementation

- **Jail Superintendent's Duty:** According to Section 479, superintendents must inform the courts when an undertrial has served half or one-third of their sentence, to facilitate their release.
- **Follow-up Order:** The Supreme Court, noticing partial compliance, reiterated the need for detailed reporting and data collection from jail authorities.

Current State of Undertrial Prisoners in India

- **Overcrowding Issue:** The latest statistics show a high proportion of undertrials in India's prisons.
- **Data from NCRB (2022):**
 - **Total Incarcerated:** 5,73,220 prisoners.
 - **Undertrials:** 4,34,302 (75.8% of total prisoners) are undertrials, indicating a significant backlog of pending cases.
 - **Women Prisoners:** 23,772 women are in jail, out of which 18,146 (76.33%) are undertrials.

Broader Context and Implications

- **Overcrowded Prisons:** The high number of undertrials reflects overcrowding and inefficiencies in the judicial system.
- **Legal Reforms:** The BNSS is seen as a step towards alleviating the situation, but effective implementation remains a challenge.
- **Justice System's Efficiency:** These measures aim to reduce the strain on the justice system and ensure timely justice for undertrial prisoners.

Next Steps and Monitoring



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- **Supreme Court's Oversight:** Continued monitoring by the Supreme Court to ensure compliance with BNSS provisions.
- **Target Date:** Aiming for significant progress in undertrial releases before November 26, aligned with Constitution Day.