

**GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS**

**RAJYA SABHA
UNSTARRED QUESTION NO. 3747**

TO BE ANSWERED ON THE 25TH MARCH, 2026/ CHAITRA 4, 1948 (SAKA)

PRISON OVERCROWDING AND UNDERTRIAL RATIO

3747. SHRI SAKET GOKHALE:

Will the Minister of HOME AFFAIRS be pleased to state:

(a) the reasons why the undertrial population in Indian prisons remains chronically above 75 per cent, despite the introduction of fast-track courts and digitized bail systems;

(b) the status of the 'Support for Poor Prisoners' scheme; and

(c) whether Government is considering a statutory cap on prison occupancy rates?

ANSWER

**MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS
(SHRI BANDI SANJAY KUMAR)**

(a) to (c): "Police" and "Public Order" are 'State list' subjects under List II of the Seventh Schedule to the Constitution of India, which places the primary administrative mandate for addressing the issue of undertrial prisoners with the State Governments. However, the Government of India has also taken several initiatives in this regard by strengthening the legal framework through the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS); the Bharatiya Nyaya Sanhita, 2023 (BNS) and the Bharatiya Sakshya Adhiniyam, 2023 (BSA). Key reforms include Section 479 of the BNSS, which

mandates the release of first-time offenders after serving one-third of their maximum sentence, and Section 4 of the BNS, introducing "Community Service" as an alternative to incarceration for petty offenses. Efficiency of investigation has also been strengthened by Section 176(3) of the BNSS, making forensic investigation mandatory for serious crimes, and Sections 61 and 63 of the BSA, which grant full legal parity to digital evidence, thereby eliminating traditional evidentiary delays. Statutory time caps for framing charges and pronouncing judgments have also been established through BNSS. The Government of India has provided the legislative and technological roadmap for addressing the situation of undertrials in jails by strengthening the laws. However, the responsibility to implement these provisions rests with the State Governments.

With the objective of providing financial assistance to poor prisoners, who are unable to pay the fine imposed on them or are unable to secure bail due to financial constraints, the Government of India had launched the "Support to Poor Prisoners" Scheme in the year 2023 and had provided Guidelines and Standard Operating Procedure (SOP) to all States and Union Territories (UTs) for implementation of the Scheme. The Ministry of Home Affairs (MHA) has further updated and revised the Guidelines and the SOP

and have shared the same with all States and UTs on 2nd December, 2025.

As per the data reported by States and UTs, 458 prisoners have since benefitted from the Scheme.

'Prisons' is a 'State list' subject under List II of the Seventh Schedule to the Constitution of India. Therefore, addressing the issue of prison occupancy rates is the responsibility of respective States and UTs who can expand the prison infrastructure by building new barracks and jails to accommodate the prisoners as per local need and requirement.
