

## MERCY PETITION UNDER BNSS

- The Bharatiya Nagarik Suraksha Sanhita (BNSS) 2023 seeks to replace the Criminal Procedure Code (CrPC) and introduces significant changes to the mercy petition process for death sentence cases.
- These changes impact core aspects like justiciability, time limits, and the execution process.

### Background on Mercy Petitions

- The Constitution granted the **President (Article 72)** and **Governor (Article 161)** the power to grant pardons or commute sentences.
- In the Supreme Court's ruling in **Maru Ram vs. Union of India (1981)**, it was established that the President must act based on the Council of Ministers' advice in mercy petitions.

### New Mercy Petition Provision in BNSS

- Under BNSS Section 472(1), convicts can file mercy petitions within a period of thirty days from the date on which the Superintendent of the jail,—
  - (i) informs him about the dismissal of the appeal, review or special leave to appeal by the Supreme Court; or
  - (ii) informs him about the date of confirmation of the sentence of death by the High Court and the time allowed to file an appeal or special leave in the Supreme Court has expired.
- Convicts can petition the Governor and President based on dismissal of appeals or confirmation of sentences.
- For cases with multiple convicts, they all **must file petitions within 60 days**.

## **Centre's Role in Mercy Petitions**

- The Central Government shall, on receipt of the mercy petition seek the comments of the State Government and consider the petition along with the records of the case.
- The Government shall make recommendations to the President within 60 days.
- Whenever an application is made to the appropriate Government for the suspension or remission of a sentence, the appropriate Government may require the presiding Judge of the Court before or by which the conviction was had or confirmed, to state his opinion as to whether the application should be granted or refused, together with his reasons for such opinion and also to forward with the statement of such opinion a certified copy of the record of the trial or of such record thereof as exists.
- When there are more than one convict in a case, the petitions shall be decided by the President together in the interests of justice.
- No time limit is specified for the President's decision.
- Upon receipt of the order of the President on the mercy petition, the Central Government shall within forty-eight hours, communicate the same to the Home Department of the State Government and the Superintendent of the jail or officer in charge of the jail.

## **Exclusion of Appeals against President's Decision**

- BNSS Section 472(7) states that the President's decisions on mercy petitions are final.
- Courts cannot question or review the grounds for President's pardons or commutations.