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## Good Conduct and Early Release: SC

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### Why in News

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Recently, the **Supreme Court** has held that the length of a prison sentence or the gravity of the crime cannot be the sole basis for denying a convict premature release from jail.

### Key Points

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- **Background:**
  - The judgment came in a **plea made by two prisoners who have been imprisoned for a botched kidnapping for ransom** case in Uttar Pradesh.
  - They are in their early middle age with a **record of good conduct** in jail.
  - The court held that “their action of kidnapping was **nothing but a fanciful attempt to procure easy money**, for which they have learnt a painful life lesson” and **ordered their release**.
- **Judgement:**
  - The **three-judge bench** held that an **assessment of the tendency to commit a crime** upon release “must be **based on antecedents as well as the conduct of the prisoner while in jail**, and not merely on his age or apprehensions of the victims and witnesses”.
  - **Reformative justice** should not merely focus on public harmony but **should foster brotherhood and mutual acceptability**.
  - **First-time offenders should especially be given a second chance** at life allowing them to look forward to a bright future.

### Criminal Justice System in India

- The **Criminal Justice System** refers to the **agencies of government charged with enforcing the law, adjudicating crime, and correcting criminal conduct**.

- The criminal justice system is **essentially an instrument of social control**:
  - Society considers some behaviours so dangerous and destructive that it either strictly controls their occurrence or outlaws them outright.
  - It is the job of the agencies of justice to prevent these behaviours by apprehending and punishing transgressors or deterring their future occurrence.
- **Retributive Justice**:
  - It is a system of criminal justice based on the **punishment of offenders rather than on rehabilitation**.
  - It holds that when an offender breaks the law, justice requires that they **must suffer in return**. It also requires that the **response to a crime must be proportional to the committed offence**.
- **Reformative or Restorative Justice**:
  - It is generally the most appreciated theory of punishment as it believes in the concept that the **object is to extinct crime and not the criminal**.
  - It believes that **nobody is born as a criminal and it is only the consequences of those circumstances** which were around the offender/criminal.
- **Objective of Criminal Justice System**:
  - To prevent the occurrence of crime.
  - To punish the transgressors and the criminals.
  - To rehabilitate the transgressors and the criminals.
  - To compensate the victims as far as possible.
  - To maintain law and order in society.
  - To deter offenders from committing any criminal act in the future.
- **Challenges**:
  - **Ineffectiveness**: The system had to protect the rights of the innocents and punish the guilty, but nowadays it has **become a tool of harassment for common people**.
  - **Pendency of Cases**: According to **Economic Survey 2018-19**, there are about 3.5 crore cases pending in the judicial system, especially in the district and subordinate courts, which leads to the actualisation of the maxim **“Justice delayed is justice denied”**.
  - **Huge Undertrials**: India has **one of the world’s largest number of undertrial prisoners**.
  - **Inefficiency of Police**: Police being the front liner in the criminal **judiciary system**, plays a vital role in the administration of justice. However, **corruption, huge workload and accountability** of police is a major hurdle in speedy and transparent delivery of justice.

- **Solutions:**

- The **reason for victimisation should be given a major thrust in reforming laws** to identify the rights of crime victims.
- The **construction of new offences and reworking** of the existing classification of offences **must be guided by the principles of criminal jurisprudence** which have substantially altered in the past four decades.
- The classification of offences **must be done in a manner conducive to the management of crimes** in the future.
- Guiding principles need to be **developed after sufficient debate** before criminalising an act as a crime.
- The **discretion of judges** in deciding the quantum and nature of sentence differently for crimes of the same nature **should be based on principles of judicial precedent.**

## Way Forward

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- Society has a right to lead a peaceful and fearless life, without free-roaming criminals creating havoc in the lives of ordinary peace-loving citizens.
- However, equally strong is the foundation of reformative theory, which propounds that a civilised society cannot be achieved only through punitive attitudes and vindictiveness.