Law Commission report

Why in news?

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Recently Law Commission released its report on bail law reform which deserves urgent attention.

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What does the report say?

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- The Law Commission, in its **268th Report,** highlights the problem where it has become the norm for the **rich and powerful to get bail with ease,** while others languish in prison.
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- The Commission, headed by former Supreme Court judge B.S. Chauhan recommend making it easier for all those awaiting trial to obtain bail.
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- The commission said that one of the first duties of those administering criminal justice must be that bail practices are “fair and evidence-based”.
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- “Decisions about custody or release should not be influenced by factors such as gender, race, ethnicity, financial conditions or social status,” the report says.
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- The main reason that 67% of the current prison population is made up of undertrials is the great inconsistency in the grant of bail.
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- Even when given bail, most are unable to meet the onerous financial conditions to avail it.
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- The Supreme Court had noticed this in the past and said that poverty appears to be the main reason for the incarceration of many prisoners, as they are unable to afford bail bonds.
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What does the commission propose?

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- The Commission seeks to improve on a provision introduced in 2005 to grant relief to thousands of prisoners languishing without trial and to decongest India’s overcrowded prisons.
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- **Section 436A of the Code of Criminal Procedure** stipulates that a prisoner shall be released on bail on personal bond if he or she has undergone detention of half the maximum period of imprisonment specified for that offence.
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- The Law Commission recommends that those detained for an offence that would attract up to seven years’ imprisonment be released on completing one-third of that period, and those charged with offences attracting a longer jail term, after they complete half of that period.
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- For those who had spent the whole period as undertrials, the period undergone may be considered for remission.
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- In general terms, the Commission cautions the police against needless arrests and magistrates against mechanical remand orders.
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- It gives an illustrative list of conditions that could be imposed in lieu of sureties or financial bonds.
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- It advocates the need to impose the “least restrictive conditions”.
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- However, as the report warns, bail law reform is not the panacea for all problems of the criminal justice system.
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- Be it overcrowded prisons or unjust incarceration of the poor, the solution lies in expediting the trial process.
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Source: The Hindu

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