

## EDITORIAL

# Sexual violence, the state, and the justice system: An unfolding tale of moral degradation in India

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On December 23, 2025, the Delhi High Court (HC) issued an order suspending the life sentence of Kuldeep Singh Sengar — convicted in 2019 for the rape of a minor Dalit girl, and for the death of her father, following an assault in custody by Sengar's brother and others — and approving his bail application in the rape case [1]. On December 29, 2025, after public protests, the Supreme Court of India (SC) stayed the Delhi High Court order [2], giving some respite to the survivor and her family. Even so, the Delhi HC order raises several concerns which could weaken public trust in the justice delivery system, particularly regarding sexual crimes against women and children. The Delhi HC decided that, regardless of the serious crime, as a legislator, Sengar could not be considered a "public servant". Hence, a life sentence for child rape by a public servant, mandated by the law, was not applicable to Sengar. Further, as he had already served jail time for over 7 years — the minimum sentence for rape of a child — the HC remitted the sentence [1].

This Delhi HC order cannot but remind us of other high-profile cases of sexual crimes against women in the recent past. I will refer to two more such cases with telling similarities as to the socio-political backgrounds of the convicts, and of the women they attacked and abused, and to the handling of these cases through the justice delivery process. All three cases reveal the political influence of the convicts in their local areas, accounting for the blatant executive overreach by legislators or local institutions reversing judicial decisions in their favour; the timing of parole applications and appeals filed by the convicts, and the subsequent favourable orders by sections of the judiciary on technicalities — all with absolutely zero regard for the impact on the vulnerable and terrified survivors and their families and witnesses.

The second such case is that of Gurmeet Ram Rahim, sentenced in 2017 to 20 years of imprisonment for the rape of two of his women disciples [3]. The third is the grotesque gang rape of a pregnant Muslim woman, Bilkis Bano — during the 2002 Gujarat communal riots — for which the special Central Bureau of Investigation (CBI) court convicted 11 individuals from the Hindu community in 2017 [4].

Gurmeet Ram Rahim is the head of the religious cult, Dera Saccha Sauda. He had established his absolute authority over the Dera and encouraged his own deification [5]. In 2017, he was handed a 20-year sentence for the rape of two of his women disciples, by a CBI court in Delhi, and a life sentence in 2019 for ordering the murder of an editor who had published the survivors' anonymous complaint [3]. In spite of these convictions for serious crimes, the Dera chief has been out on parole 14 times, and was recently granted a 40-day parole (his 15<sup>th</sup>) on January 4, 2026, by the Rohtak Divisional Commissioner [6].

The third case is that of the brutal gang rape by a Hindu mob of the pregnant Bilkis Bano, as well as the gang rape and murder of her mother and cousin, and murders of 12 other relatives, including her 3-year-old daughter, during the 2002 Gujarat communal riots. A special CBI court in Mumbai convicted and sentenced 11 men to life imprisonment for these offences, in 2008 [4]. This was after the trial had been transferred by the Supreme Court to Mumbai, convinced that the communal atmosphere in Gujarat state was not conducive to a fair trial. These convictions were upheld by the Bombay High Court in 2017, and by the Supreme Court in 2019 [7]. However, after 15 years, the Gujarat government remitted the sentences of all 11 convicts, releasing them prematurely with much fanfare on August 15, 2022, claiming this action to be "in accordance with the 1992 policy, citing the 'good conduct' of the convicts while imprisoned" [4]. The Supreme Court later set aside the remission of the 11 convicts' life sentences on the grounds that the Gujarat government by its action was guilty of "usurpation of jurisdiction and an instance of abuse of discretion" of Maharashtra, where the trial had been conducted [8]. Stating that "breach of rule of law (cannot) be ignored in order to protect a person's liberty that he is not entitled to," the apex Court ordered all the 11 convicts to surrender and serve out their life sentences, while stressing the heinous nature of the crimes [8].

### **Politically influential criminals**

At the time of the rape by Sengar, he "was an influential politician from the BJP, which was in power in the state as well as at the national level. . . ." [9]. The survivor, a Dalit minor, had approached him for help in getting a job, after which she was taken to his house, confined, and raped by him. In the second case, Gurmeet Ram Rahim had a substantial following across two states, Haryana and Punjab [5]. In Bilkis Bano's case, there is evidence that the State's support empowered the mob of the dominant religion to violate and kill women from the Muslim minority, borne out in the methods used to push for the remission [8]. Thus, the vulnerabilities of poor women were exploited by the powerful perpetrators, not only when the crimes were committed, but through the entire justice delivery process.

One important aspect of the authorities' beneficence towards two of these perpetrators may be their noteworthy influence during elections. Between 2002 and 2019, Sengar had won the assembly seat of Unnao, Uttar Pradesh, four times consecutively, representing three different political parties espousing diverse political ideologies [10]. He was expelled in August 2019 from his last party, the Bharatiya Janata Party (BJP), more than two years after the 2017 crimes, after a public outcry and pressure coming from women leaders of various opposition parties [11]. That Gurmeet Ram Rahim was able to incite riots across two states demonstrated his large following [12]. In both these cases, their extensive influence in their constituencies ensured their importance in electoral politics. This is also linked with their parole timing. For example, Gurmeet Ram Rahim enjoyed 405 days of parole out of the eight years since his conviction in 2017 [6]. Of these, three stints coincided with three important polls — the Delhi assembly polls in February 2025, the Haryana assembly polls in October 2024, and the Punjab assembly polls in February 2022 [13].

In Bilkis Bano's case, the apex court highlighted the lengths to which the state government went to push for remission: such as concealment of crucial details regarding the appropriate authority's rejection of the remission; the Gujarat government's approval of the remission requests which were outside its jurisdiction; utilising a cancelled 1992 remission policy in preference to the more stringent 2014 one; and the compromised composition of its own Jail Advisory Committee, appointed to consider the remission applications [8]. These actions of the executive in manipulating facts led the Supreme Court to set aside the remission, stating that its own previous favourable order of May 2022 had been obtained by suppressing key facts and was, therefore, not binding on the parties [8].

### **Liberal parole and bail provisions used selectively**

Coming back to the parole approvals, the dates and numbers are intriguing. For example, the 11 convicts in Bilkis Bano's case have been out on parole on average for about 1000 days since their conviction in the year 2008 [14]. Sengar enjoyed parole four times since his conviction in 2019, and interim bail several times [15]. Approval of parole rests with the prison authorities, and it is disturbing for two reasons. First, such reversals of justice in violent crimes result in compromising the safety of the survivors [16] and cause severe mental trauma arising out of anxiety; imminent risks to the safety of the survivors and their family members; and above all, the sense of a loss of security and dignity. The fears of the survivors are very real, as borne out by the post-rape murders by Sengar and Ram Rahim, and the fact that one of the 11 convicts in *Bilkis Bano*, Mitesh Bhatt, was even booked for committing a sexual crime, and four others for threatening witnesses in the case, while on parole [8, 17]. This selective awarding of parole leads to miscarriage of the procedural and cognitive justice due to the survivors [18], and has been condemned by critics as a mockery of justice [3,6].

Moreover, frequent bail and parole orders favouring politically powerful convicts stand in glaring contrast to the continuing ordeals of several undertrials — many of whom have been behind bars for five years and more, without charges ever being filed by the relevant State authorities [19]. In other cases, bail on medical grounds has been denied to even severely ill undertrials leading to their deaths [20, 21]. Such liberal approaches in selective cases and stringency in others shake public faith in the law.

### **Executive interference denying women justice**

Such brazen interference by the executive branch of government against those who faced sexual violence denying justice to women survivors is concerning for various reasons. I note the two most significant ones, amongst others. These relate to both the government policies and the robust substantive reforms to address sexual violence against women. In 2014, India witnessed an unprecedented shift in the ruling dispensation from the long-standing trend of coalition governments to a single party majority, first at the Centre, and then in the northern states. The Government of India, post the 2014 Lok Sabha elections, had promised a corruption-free government, and claimed progressive credentials with its slogan "*Beti padhao, Beti bachao*" (Educate girls, save girls). But the travesty of justice in these cases of sexual crimes is clearly at odds with these promises. And the reforms in the Criminal Law Amendment Act, 2013, (known as the "post-Nirbhaya reforms") to make the state and its apparatus responsive to sexual crimes against women were rolled out around 2014. The work done over decades by civil society and progressive judges has been central to these reforms marking a paradigm shift in conceiving of sexual violence and rape, and of care and justice for women. Their implementation has fallen far short in making a true difference to justice delivery in India for women subjected to sexual crimes, especially where powerful individuals are the offenders.

All three cases discussed here indicate that sections of the judiciary have increasingly compromised their autonomy and independence. This combined with their giving in to the executive power that the government wields directly or indirectly is lethal. It amounts to shutting the doors of justice to those suffering sexual violence, compounding their trauma, and emboldening even ordinary sexual offenders. In each of these cases, the brave survivors had a long wait for justice — Bilkis for a full 22 years — while their attackers walked free, regularly enjoying parole and bail. How many aggrieved women could stand that degree of fear and pressure without it destroying their mental health? As one commentator has said "For survivors of sexual violence, court orders about bail, parole, and sentence suspension are not abstract questions of law. They decide whether a woman or child can sleep, go to school, leave home, or feel safe in their own neighbourhood" [22].

For every survivor who comes forward to challenge sexual and other violence, there are several who are murdered even before they can speak, and many more who cannot dare to challenge the system, whether the judicial system acts against brazen interference with its autonomy or simply subsides into just another crumbling pillar of democracy, will determine the practical relevance of legal reforms and government policies such as "*Beti padhao, Beti bachao*".

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**Conflict of Interest:** Working Editor, *Indian Journal of Medical Ethics (IJME)*.

**Funding:** None

**To cite:** Bandewar SS. Sexual violence, the state, and the justice system: An unfolding tale of moral degradation in India. *Indian J Med Ethics*. 2026 Jan-Mar; 11(1) NS:3-5. DOI: 10.20529/IJME.2026.002

**Submission received:** January 12, 2026

**Submission accepted:** January 19, 2026

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