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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Date of decision: 09.12.2025

+ W.P. (CRL) 4090/2025

MINOR S THR HER MOTHER MPetitioner

Through: Mr. Anwesh Madhukar, Ms. Prachi Nirwan, Ms. Simran Chaudhary, Advocates with victim S and her mother M in person.

versus

THE STATE OF NCT OF DELHI AND ANRRespondents

Through: Ms. Rupali Bandhopadhyaya, ASC with Mr. Abhijeet Kumar, Ms. Amisha Gupta, Advocates. SI Priyanka, PS-Alipur.

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

JUDGMENT(ORAL)

RAVINDER DUDEJA, J.

1. Petitioner is a 17 years old rape victim, who has filed the present petition through her mother, seeking intervention of this Court for termination of her pregnancy since the current gestational age of the petitioner is beyond the permissible limits of the Medical Termination of Pregnancy Act, 1971 (as amended by the MTP Amendment Act, 2021).

2. The brief facts are that on 25.03.2025, petitioner informed her mother at about 3.00 pm that she would be going downstairs in order



to procure some goods and since then, she had been missing. On 26.03.2025, pursuant to her missing, petitioner's mother approached PS Alipur where FIR No. 142/2025 was registered under Section 137(2) BNS, 2023.

3. On 22.11.2025, petitioner was recovered from Bihar and was taken to Satyawadi Raja Harish Chandra Hospital, Delhi, where her MLC was conducted. It was disclosed by the petitioner that she had left for Bhagalpur, Bihar to stay with her boyfriend. Upon her medical examination, it was discovered that petitioner was pregnant for about 25 weeks.

4. On 24.11.2025, petitioner was produced before Child Welfare Committee ["CWC"], Alipur, where, she expressed her wish to stay with her mother and sought medical termination of pregnancy ["MTP"]. CWC directed that the custody of the child be restored to her mother and directed the Investigating Officer to obtain opinion of the medical board, since the pregnancy had exceeded 24 weeks.

5. On 02.12.2025, an ultrasound was conducted on the victim at Respondent No. 2 Hospital which indicated a gestational age of 26 weeks and 5 days, and on 04.12.2025, the medical board declared her physically fit for MTP, noting that the pregnancy resulted from sexual assault and posed grave risk to her mental health, though the advanced gestation carried risks of survival of the foetus and possible surgical complications. As the pregnancy exceeded the statutory limit under the MTP Act, 1971 (as amended in 2021), the hospital advised her to seek orders from this Court for termination.



6. The learned counsel for the petitioner submits that the petitioner, a rape survivor is entitled to invoke Article 226 of the Constitution of India for protection of her fundamental rights, particularly, her right to life and dignity under Article 21 of the Constitution. He further submits that the Hon'ble Supreme Court as also this Court has permitted termination of pregnancy even in cases where the gestation period exceeded 24 weeks through the following judicial precedents:-

- “i. **Venkatalakshmi vs. The State of Karnataka & Ors.**, Civil Appeal No. 15378/2017, passed by the Hon'ble Supreme Court of India on 21.09.2017. [26 weeks]
- ii. **Minor S (Thr Father B) vs State & Anr.**, 2025:DHC:2710 decided by this Court on 17.04.2025. [exceeding 27 weeks]
- iii. **Minor R Thr. Mother H vs. State (NCT of Delhi)**, 2023 SCC Online Del 383, decided by this Court on 25.01.2023. [24 weeks and a few days]
- iv. **Mrs. X vs. GNCTD & Anr.**, 2022/DHC/005344, decided by this Court on 06.12.2022. [33 weeks].”

7. Issue notice. Learned ASC, who appears for the state/respondent no. 1, submits that the documents placed on record have been duly verified and in view of the opinion given by the medical board, State has no objection to the termination of the pregnancy.

8. This court has given careful consideration to the submissions made by the learned counsel for the petitioner as well as the learned ASC for the State.

9. The child victim was examined by the medical board comprising of five doctors at Dr. Baba Saheb Ambedkar Hospital,



2025:DHC:11104



Delhi on 04.12.2025 and it was opined by them that the victim is a minor girl of 17 years only and pregnancy is caused due to alleged sexual assault and continuation of pregnancy will constitute a grave injury to mental health of victim. It was further opined that the victim is physically fit for the termination of the pregnancy. The medical board report dated 04.12.2025 is produced as under;

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ANNEXURE P-5**DR. BABA SAHEB AMBEDKAR HOSPITAL
(GOVT OF NCT OF DELHI)
SECTOR VI, ROHINI, DELHI-85.**

F.No.48(08)/2024/BSAH/OBG/MTP Board/19954

Dated: 4/12/25

FORM D

(See sub-clause(ii) of clause(b) of rule 3A)

Report of the Medical Board for Pregnancy Termination Beyond 24 weeks

Details of the woman seeking termination of pregnancy:

1. Name of the woman:

Child S B D D.

AR NO 142/250/A 137 C27/64(C) BWS +
CPCSO Act dt 26/9/2025 P.S. Adapur

2. Age :

17 yr.

3. Registration/Case Number:

CPD No 260409

NIC NO M2800/5625123/7 at SRHC
Hospital, Narela

4. Available reports and investigations:

S.No	Report	Opinion on the findings
1.	U/S done at DR BSAH Hospital on 2/12/25 Single live fetus of average bi 26 weeks. EFW 2283.13 gm. + Placenta anteriorly attached.	Single live pregnancy of average GA 27 wks by biac - on 02/12/25

5. Additional Investigations (if done).

S.No	Investigations done	Key findings
	A+B - 11-2 gm.	WNL
	RBC group - O + W	

6. Opinion by Medical Board for termination of pregnancy:

a) Allowed

b) Denied

As per direction of honorable court.

Justification for the decision:

1) Victim is a minor girl of 17 yr only and pregnancy is caused due to alleged sexual assault and continuation of pregnancy will constitute a grave injury to mental health of victim (Section 3(b) Explanation 2 of MTP Act.)

2) As the pregnancy is already 27 weeks baby may be born alive and may survive with complication of maturity.

3) If medical method of termination of pregnancy fails surgical management may be needed with its associated possible complications.

7. Physical fitness of the woman for the termination of pregnancy:

a. Yes

b. No

Members of the Medical Board who reviewed the case:

S.No	Name	Signature
1.	DR SANDHYA JAIN MD OB-GYN	Sandhya Jain
2.	DR AJAY K. GUPTA AMSC(A.)	Ajay K. Gupta
3.	DR MEERAJ RAHANA Consultant (Obs+Gyn)	Meera Raj
4.	DR RANJEET RANJAN Consultant Radiology	Ranjeet Ranjan
5.	DR VIKAS DABAN Specialist Obstetrics	Vikas Daban

Date and Time:



10. In India, termination of pregnancy is governed and regulated by the Medical Termination of Pregnancy Act, 1971 [MTP Act]. It provides the legal frame work for termination of certain pregnancies by registered medical practitioners. Section 3 of the MTP Act, 1971, as it stands post 2021 amendment reads as under;

“Section 3. When pregnancies may be terminated by registered medical practitioners.

(1) Notwithstanding anything contained in the Indian Penal Code (45 of 1860), a registered medical practitioner shall not be guilty of any offence under that Code or under any other law for the time being in force, if any pregnancy is terminated by him in accordance with the provisions of this Act.

[(2) Subject to the provisions of sub-section (4), a pregnancy may be terminated by a registered medical practitioner,--

(a) where the length of the pregnancy does not exceed twenty weeks, if such medical practitioner is, or

(b) where the length of the pregnancy exceeds twenty weeks but does not exceed twenty-four weeks in case of such category of woman as may be prescribed by rules made under this Act, if not less than two registered medical practitioners are,

of the opinion, formed in good faith, that--

(i) the continuance of the pregnancy would involve a risk to the life of the pregnant woman or of grave injury to her physical or mental health; or

(ii) there is a substantial risk that if the child were born, it would suffer from any serious physical or mental abnormality.

Explanation 1.--For the purposes of clause (a), where any pregnancy occurs as a result of failure of any device or method used by any woman or her partner for the purpose of limiting the number of children or preventing pregnancy, the anguish caused by such pregnancy may be presumed to constitute a grave injury to the mental health of the pregnant woman.

Explanation 2.--For the purposes of clauses (a) and (b),



where any pregnancy is alleged by the pregnant woman to have been caused by rape, the anguish caused by the pregnancy shall be presumed to constitute a grave injury to the mental health of the pregnant woman.

(2A) The norms for the registered medical practitioner whose opinion is required for termination of pregnancy at different gestational age shall be such as may be prescribed by rules made under this Act.

(2B) The provisions of sub-section (2) relating to the length of the pregnancy shall not apply to the termination of pregnancy by the medical practitioner where such termination is necessitated by the diagnosis of any of the substantial foetal abnormalities diagnosed by a Medical Board.

(2C) Every State Government or Union territory, as the case may be, shall, by notification in the Official Gazette, constitute a Board to be called a Medical Board for the purposes of this Act to exercise such powers and functions as may be prescribed by rules made under this Act.

(2D) The Medical Board shall consist of the following, namely:

- (a) a Gynaecologist;*
- (b) a Paediatrician;*
- (c) a Radiologist or Sonologist; and*
- (d) such other number of members as may be notified in the Official Gazette by the State Government or Union territory, as the case may be.]*

(3) In determining whether the continuance of a pregnancy would involve such risk of injury to the health as is mentioned in sub-section (2), account may be taken of the pregnant woman's actual or reasonably foreseeable environment.

(4) (a) No pregnancy of a woman, who has not attained the age of eighteen years, or, who having attained the age of eighteen years, is a 2[mentally ill person], shall be terminated except with the consent in writing of her guardian.

(b) Save as otherwise provided in clause (a), no pregnancy shall be terminated except with the consent of the pregnant woman."



11. A perusal of the above provision shows that, under Section 3(2), the pregnancy can be terminated under various conditions. For the present case, in terms of Explanation 2, for the purpose of clause (a) and (b) of sub section (2) of Section 3 of the MTP Act, whensoever any pregnancy is alleged to be caused by rape, the anguish caused by such pregnancy shall be presumed to constitute a grave injury to the mental health of the pregnant woman.

12. Coming back to the present case and having considered the submissions made and on perusal of the material on record, this Court finds that the pregnancy of the victim who is a minor is caused due to sexual assault on her by the accused who has been arrested and taken into custody in FIR no 142/2025. The pregnancy is unwanted, and has caused her severe physical and mental trauma, and is the subject matter of FIR No. 142/2025 registered at PS Alipur.

13. The Supreme Court in *Suchita Srivastava* (2009) 9 SCC 1, held that a woman's right to reproductive choice is a dimension of personal liberty under Article 21 of the Constitution and that she has the sacrosanct right to bodily integrity. Similarly, in *X v. Principal Secretary, Health & Family Welfare Department* AIR 2022 SC 4917, it was held that irrespective of marital status, a woman has the absolute right to decide whether to continue with or terminate her pregnancy if continuation would endanger her mental or physical health. The Apex Court reiterated that pregnancy outside marriage as a result of sexual assault or abuse is inherently distressing, causes grave injury to mental health, and that reproductive autonomy and dignity



are central to Article 21 in *XYZ v. State of Gujarat* SLP (Crl) 33790/2023.

14. In *X2 v. State (NCT of Delhi)* (2023) 9 SCC 433, the Supreme Court interpreted Rule 3-B of the MTP Rules purposively, recognising that women in difficult circumstances, such as survivors of sexual violence, incest, or those facing social and financial constraints, may delay disclosure or decision-making regarding pregnancy. The Court clarified that the Rule was designed to overcome such barriers and ensure meaningful access to abortion. Pertinently, it anchored reproductive rights within Article 21 as encompassing not only the choice to have or not have children, but also access to contraception, safe abortion, and healthcare. By linking reproductive autonomy to bodily autonomy, the Apex Court affirmed that forcing a woman to carry an unwanted pregnancy violates her dignity, privacy, and decisional freedom, making abortion access an essential facet of constitutional personhood rather than a mere statutory benefit.

15. This Court in *XX v. Govt. Of NCT of Delhi and anr.* in WP (Crl) 2949/2025 decided on 17.09.2025, allowed the termination of pregnancy of a woman who was raped on the pretext of marriage. Similarly in *Minor S v. State & Another*, 2025 SCC OnLine Del 2506, this court in the case of a minor aged 15 years with a gestation period exceeding 27 months, the pregnancy was allowed to be terminated with proper guidelines.

16. Similarly, this Court in the case of *Minor R through Mother H Vs. State (NCT of Delhi)*, 2023 SCC OnLine Del. 383, this Court held



that such cases would stand covered under Explanation 2 of Section 3(2) of MTP Act:

"11. Though the statute does not provide for termination of pregnancies over the gestational age of 24 weeks except in case of detection of substantial foetal abnormalities, the provision in regard to which is Section 3(2B) of MTP Act, the extraordinary powers of the Constitutional Courts, however, have been recognized even by the Hon'ble Supreme Court of India and exercised several times by the High Courts to allow termination of pregnancies even in cases where pregnancy has exceeded the limit of 24 weeks

12. In the case of sexual assault, denying a women right to say no to medical termination of pregnancy and fasten her with responsibility of motherhood would amount to denying her human right to live with dignity as she has a right in relation to her body which includes saying Yes or No to being a mother. Section 3(2) of the MTP Act reiterates that right of a woman. To force the victim to give birth to child of a man who sexually assaulted would result in unexplainable miseries. One will shudder to think what a victim who is carrying such fetus in her womb must be going through each day, being reminded constantly of the sexual assault that she has undergone. Cases where sexual assault results into pregnancy of the victim are even more traumatic as the shadow of such tragic moment lingers on each day with the victim. It is this mental agony which has been taken into account by the MTP Act which lays emphasis on not only grave physical injury but also mental health of a pregnant woman. It therefore provides under Section 3(2)(i) that if the continuance of pregnancy would involve grave injury to the mental health of a pregnant woman, she can legitimately seek to terminate the same. In furtherance of the same intent, Section 3(2) Explanation 2 of the MTP Act provides that

"Explanation 2.- Where any pregnancy occurs as a result of failure of any device or method used by any married woman or her husband for the purpose of limiting the number of children the anguish caused by such unwanted pregnancy may be presumed to constitute a grave injury to the mental health of the pregnant woman"

The present case stands covered under this explanation.

13. In this context, it is not in dispute that a female invariably has a right to make reproductive choices and decisions which are



*concerned with her bodily integrity and autonomy. Reliance in this regard can be placed upon the decision of the Honble Apex Court in **X v. The Principal Secretary Health and Family Welfare Department & Anr.**, SLP (C) No (s). 12612/2022 dated 21.07.2022, and **Suchita Srivastava v. Chandigarh Administration** (2009) 9 SCC 1. **The Honble Apex Court in Justice K.S. Puttaswamy (Retd.) and Anr v. Union of India and Ors.** (2017) 10 SCC 1, has also observed that the choice regarding procreation is an integral part of right to dignity enshrined under Article 21 of Indian Constitution.”*

17. The victim alongwith her mother/complainant, present in court, have expressed their desire to terminate the pregnancy and confirm that they have taken conscious and well informed decision while seeking termination of pregnancy.

18. In view of the above catena of precedents as also age of the petitioner and the mental and physical trauma inflicted upon her by the heinous act of sexual assault, this Court is of the opinion that continuation of pregnancy may permanently scar her psyche and cause grave and irreparable harm to her physical and mental health. The sufferings of the victim being a child herself, cannot be compounded by forcing her to continue the pregnancy. Apart from above, the child victim is bound to face social stigma which may not permit the scars left by the defilement of her body to heal. Moreover, the decision of the victim whether to give birth to the conceived child or to terminate the pregnancy has to be given primacy.

19. In view of the above, the writ petition is allowed. The Medical Superintendent, Dr. Baba Saheb Ambedkar Hospital is directed to carry out the procedure for termination of petitioner's pregnancy at the



earliest, subject to all necessary medical precautions and procedures etc.

20. The petitioner be permitted to get herself admitted at Dr. Baba Saheb Ambedkar Hospital on 10.12.2025 on the strength of this order.

21. During procedure, if the attending doctors form an opinion that there is risk to the life of the petitioner, they shall have full discretion to withhold or cancel the termination procedure.

22. The doctors shall preserve the foetal tissue sample as it may be required for the DNA testing in connection with the pending criminal proceedings.

23. The State shall bear all the expenses necessary for termination of pregnancy of the petitioner, her medicines, her food etc.

24. If the child is born alive, the Medical Superintendent, Dr. Baba Saheb Ambedkar Hospital shall ensure that everything which is reasonably possible and feasible in the circumstances, is offered to such child and the Child Welfare Committee concerned shall do the needful in accordance with law.

25. Petition is allowed and disposed of in the aforesaid terms.

26. Copy of this order be sent to Medical Superintendent, Dr. Baba Saheb Ambedkar Hospital, Delhi for information and compliance.

27. Copy of this order be given to learned counsel for the petitioner under the signatures of the Court Master.

RAVINDER DUDEJA, J

DECEMBER 9, 2025/NA