HC-KAR

IN THE HIGH COURT OF KARNATAKA AT DHARWAD

DATED THIS THE 19TH DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

WRIT PETITION NO. 104962 OF 2026 (GM-RES)

BETWEEN:

1. SMT. MANJAMMA W/O. GOUDAPPA,
AGE: 40 YEARS, OCC. AGRI.,
R/O. #282, GOLLARAHATTI, KALINGERI,
TQ. SANDUR, DIST. BALLARI-583104.

2. KUM. XXXXX D/O. GOUDAPPA,
AGE. 12 YEARS, OCC. STUDENT,
R/O. #282, GOLLARAHATTI, KALINGERI,
TQ. SANDUR, DIST. BALLARI-583104,
REP. BY HER NATURAL MOTHER GUARDIAN,
PETITIONER 1.

... PETITIONERS

(BY SRI. R.A. PUROHIT, ADVOCATE)

AND:

Digitally signed by MOHANKUMAR B SHELAR
HIGH COURT OF KARNATAKA

1. THE STATE OF KARNATAKA,
BY ITS SECRETARY,
DEPT. OF HEALTH AND FAMILY WELFARE,
M.S. BUILDING, BENGALURU-01.

2. THE DIVISIONAL CHIEF OFFICER,
O.B.G. SECTION, BIMS HOSPITAL BALLARI,
DIST. BALLARI-583104.

3. TALUK GENERAL HOSPITAL, SANDUR,
DEPARTMENT OF RADIO DIAGNOSIS
AND IMAGING SCIENCE, TQ. SANDUR,
DIST. BALLARI-583104.

4. THE PRESIDENT,
DISTRICT CHILD WELFARE COMMITTEE,
BALLARI, DIST. BALLARI-583104.

… RESPONDENTS

(BY SRI. SHARAD V. MAGADUM, AGA)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE WRIT IN THE NATURE OF MANDAMUS PERMITTING THE PETITIONER NO.1 TERMINATE ONGOING PREGNANCY OF HER MINOR DAUGHTER PETITIONER NO.2 THROUGH RESPONDENT NO.2 OR BY A REGISTERED MEDICAL PRACTITIONER ANY APPROVED PRIVATE OR GOVERNMENT CENTER OR HOSPITAL IN THE INTEREST OF JUSTICE AND EQUITY AND ETC.,

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

ORAL ORDER

(PER: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM)

The present writ petition is filed under Article 226 of the Constitution of India seeking permission for medical termination of pregnancy of the victim, who is a minor and whose pregnancy is alleged to be the consequence of sexual assault attracting the provisions of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act).

2. Considering the urgency involved and the sensitive nature of the matter, this Court by order dated 17.06.2026 directed respondent Nos.2 and 3 to constitute a board clinically examine petitioner No.2 and submit a report to this Court as to

whether the pregnancy of the minor petitioner No.2 has to be terminated, keeping in mind the requirement of sub-Section 2 of Section 3 of the Medical Termination of Pregnancy Act, 1971.

3. Pursuant to the directions issued by this Court, the Medical Board examined the victim and submitted its report dated 18.06.2026. The Medical Board has opined that the medical termination pregnancy can be considered.

4. The law relating to termination of pregnancy in India is governed by the Medical Termination of Pregnancy Act, 1971, as amended by the Medical Termination of Pregnancy (Amendment) Act, 2021 (for short "the Act").

5. Under Section 3 of the Act, pregnancy may ordinarily be terminated up to 20 weeks on the opinion of one registered medical practitioner and up to 24 weeks on the opinion of two registered medical practitioners for certain categories of women, which include survivors of sexual assault and minors.

6. Section 5 of the Act provides an exception permitting termination beyond the prescribed limit only when such

termination is immediately necessary to save the life of the pregnant woman.

7. In cases where pregnancy has crossed the statutory limit, constitutional Courts exercising jurisdiction under Article 226 or Article 32 of the Constitution of India, have entertained petitions seeking termination, primarily based on medical opinion regarding risk to the life or health of the pregnant woman or severe foetal abnormalities.

8. In ***X v. Union of India (2024) 12 SCC 453***, the Hon'ble Supreme Court held that Courts may permit termination beyond the statutory limit where continuation of pregnancy would endanger the life of the woman and the medical report does not disclose any substantial foetal abnormalities.

9. In ***X v. State (NCT of Delhi) 2025 SCC OnLine Del 2506***, the Division bench of Delhi High court overturned a single judge's order allowing a 16 year-old survivor of sexual assault to terminate her 26-week pregnancy, and directed her to continue the same till 34 weeks.

10. However, the consistent thread running through the aforesaid decisions is that Courts have relied upon the opinion of competent Medical Boards while deciding whether termination can be safely undertaken. Where the Medical Board has opined that termination would pose serious risk to the life of the pregnant woman, Courts have refrained from permitting such termination.

11. In the present case, the pregnancy has advanced to 25 weeks, which is well beyond the stage of foetal viability. At this stage, the foetus is capable of survival outside the womb with appropriate neonatal care.

12. The Medical Board constituted pursuant to the directions of this Court has categorically opined that induction for termination at this stage can be done.

13. In the present case, this Court has carefully examined the report and opinion furnished by the duly constituted Medical Board. The Board, after conducting a detailed medical examination of the victim and assessing the stage of pregnancy, has unequivocally opined that termination of pregnancy at the present stage would not pose serious medical

risks and would be medically safe. When such a clear and categorical medical opinion is placed on record, this Court, while exercising jurisdiction under Article 226 of the Constitution of India, cannot disregard the expert medical assessment.

14. Though this Court is deeply conscious of the traumatic circumstances in which the victim has conceived, particularly in view of the alleged sexual assault attracting the provisions of the POCSO Act, the paramount consideration must be the safety and survival of the victim.

15. In view of the advanced gestational age of 25 weeks, the pregnancy has crossed the stage where termination could be medically treated as an abortion procedure. At this stage, medical intervention would essentially amount to preterm delivery, which, as per the Medical Board, can be done.

16. Therefore, this Court finds no justification to issue directions permitting contrary to the medical opinion placed on record. Medical board upon medical and clinical examination of the victim who is hardly aged 15 years has opined that the medical termination is viable without any risk to the mother

and fetus. This Court therefore finds it necessary to direct the medical board to take appropriate medical measures and ensure management before and during the procedure to ensure and safeguard her health.

17. Having regard to the peculiar facts of the case and the status of the victim as a minor survivor of sexual assault, the following directions are issued:

(i) The respondent–Hospital shall ensure that the victim receives continuous medical supervision and appropriate antenatal care until delivery.

(ii) The respondent–hospital shall take all necessary precautions to ensure safe delivery and neonatal care.

(iii) The Child Welfare Committee and District Child Protection Unit shall extend counselling, psychological assistance rehabilitation support to the victim;

(iv) The State shall ensure that the victim is extended the benefit of compensation under the Victim Compensation Scheme and other welfare measures available under law.

(v) If the victim or her guardians express inability or unwillingness to raise the child after birth, the Child Welfare Committee shall take appropriate steps in accordance with law for care and adoption of the child.

(vi) The respondent–hospital shall preserve relevant medical evidence, if required, for the purposes of the criminal proceedings.

(vii) Learned AGA is directed to forthwith communicate this order orally to the concerned respondents.

The writ petition stands ***allowed***.

Sd/-
(SACHIN SHANKAR MAGADUM)
JUDGE

MBS
CT:BCK
LIST NO.: 1 SL NO.: 1