



2026:DHC:1999

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

% *Date of Decision: 10th March, 2026*

+ W.P.(CRL) 726/2026

MINOR J THR MOTHER PPetitioner

Through: Mr. Anwesh Madhukar, Advocate
(DHCLSC) with Ms. Prachi Nirwan
and Ms. Simran, Advocates.

versus

STATE & ANR.Respondents

Through: Mr. Amol Sinha, ASC for State with
Mr.Kshitiz Garg, Mr. Ashvini Kumar
and Ms. Chavi Lazaru, Advocates.
SI Himanshi, PS Uttam Nagar.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Present petition has been filed by a minor girl, who is barely 16 years of age.
2. Petition has been filed by her through her mother.
3. Minor is, reportedly, a victim of sexual assault and is having gestational period of around 26 weeks.
4. Since she is not interested in carrying with the aforesaid pregnancy and wants its termination at the earliest, present petition has been filed seeking indulgence of this Court.
5. Present petition was taken up by this Court yesterday i.e. 09.03.2026 and after hearing the minor as well as learned counsel for the petitioner, direction was given to the concerned hospital i.e. DDU Hospital to constitute a *Medical Board*, with further direction to send report of such Board in a



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sealed cover.

6. Report has now been produced in a sealed envelope.

7. Before proceeding any further, this Court has, again, interacted with the minor as well as her mother in chamber and they were duly apprised about the various aspects related to their request of termination of pregnancy. However, they both were found adamant in termination of pregnancy and in no uncertain words, reiterated their such decision.

8. Mr. Anwesh Madhukar, learned counsel for petitioner submits that minor is victim of sexual assault and she does not want to continue with the pregnancy in question. He submits that since pregnancy is a direct consequence of sexual assault, the anguish caused thereby has to be presumed as a “grave injury” to the mental health of the minor in question. Section 3 of Medical Termination of Pregnancy Act, 1971 (as amended up-to-date) (*hereinafter referred to as MTP Act*) reads as under: -

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



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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 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."

Emphasis supplied

9. Explanation 2 talks about anguish caused by any such pregnancy and, therefore, aspect related to grave injury to the mental health of any such pregnant woman is, quite evidently, imaginable.



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10. MTP Act does not provide for termination of pregnancy over the gestational age 24 weeks, except where there is detection of any substantial fetal abnormality and, therefore, the minor is compelled to file the present petition, through her mother.

11. There is no qualm with respect to the fact that the extraordinary jurisdiction of the Constitutional Courts can be invoked in such a situation and wherever found so permissible, the pregnancy can be directed to be terminated.

12. This Court in *S Vs. State: 2025 SCC OnLine Del 3863* has observed as under:-

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27. *This position was affirmed by the Hon'ble Supreme Court in case of A (Mother of X) v. State of Maharashtra & Anr.: Civil Appeal No. 5194 of 2024, wherein the Court had allowed termination of pregnancy of more than 29 weeks being carried by a rape victim. Prior thereto also, in case of Venkatalakshmi v. State of Karnatka & Ors.: Civil Appeal No. 15378 of 2017, the Hon'ble Supreme Court had permitted termination of a pregnancy at 26 weeks on the basis of severe mental trauma caused by rape.*

28. *This Court, including this Bench, has passed similar directions in other similar cases, where continuation of pregnancy beyond 24 weeks posed serious risks to the mental or physical health of the woman, especially in cases arising from sexual assault.*

13. This Court has also gone through *Venkatalakshmi v. State of Karnatka: 2017 SCC OnLine SC 2156* wherein also, the minor was subjected to a sexual assault and on her medical examination and investigation, she was found to be of 26 weeks gestation with mild anaemia and the Hon'ble Supreme Court, keeping in mind the overall facts of the matter and the fact that such minor was a victim of rape, directed termination of pregnancy, while also directing that every safety aspect would be kept in mind while terminating such



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pregnancy.

14. Mr. Anwesh Madhukar, learned counsel for petitioner also relies upon another judgment passed by this Court in *Minor S (Thr. Father B) Vs. State: W.P. (Crl.) 1231/2025 (DoD: 17.04.2025)* whereby this Court, while taking up a case of a 15 years old child, who was also a victim of rape, permitted medical termination of pregnancy despite the fact that gestation period was exceeding 27 weeks. He also relies upon in *Minor S Through Father R v. State (NCT of Delhi): W.P. (CRL.) 2209/2024* (order dated 26.07.2024) and on in *XX Vs. State (NCT of Delhi): 2025:DHC:8031*.

15. As per prosecution, FIR in question was registered on 22.02.2026 on the basis of report lodged by mother of minor girl whereby she also informed that her daughter, who is aged 16 years, was pregnant and wanted action against the concerned boy who, even, had been threatening them.

16. Statement of minor girl has already been recorded by the concerned Magisterial Court on 27.02.2026 wherein she categorically claimed that she was pregnant and that the concerned offender had been threatening her. Though at first blush, it may seem to be a case of consensual relationship, but fact remains that minor girl is hardly 16 years of age and wants termination of pregnancy and has even levelled allegations of her being threatened by the concerned offender-boy.

17. Report with respect to ultrasound of foetus has also been perused and as per such report, no congenital anomalies were noticed.

18. As per the direction of this Court, the report of the *Medical Board* has been produced in sealed cover and as per opinion given by Medical Board, it has allowed and permitted termination of pregnancy. Period of gestation is 27 weeks plus/minus 12 days and as per the Medical Board, victim is



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physically and mentally fit to undergo medical termination of pregnancy. Needless to say, Medical Board has also put a caveat and, rightly so, by observing that termination of pregnancy may pose standard risk as that of any procedure or surgery.

19. Report be taken on record and be made part of the record.

20. This Court very well comprehends and understands the grave mental injury and trauma inflicted upon the mind of a minor, on account of sexual assault in question. Reference be also made to *C Vs. State (NCT of Delhi): 2024 SCC OnLine Del 5617* wherein Co-ordinate Bench of this Court has observed as under:-

“16. The Petitioner's plea is also rooted in her fundamental rights under Suchita Srivastava v. Chandigarh Admn. (2009) 9 SCC 1 (2023) 9 SCC 433 Article 21 of the Indian Constitution, which guarantees personal liberty. This liberty encompasses the right to make reproductive choices, including the termination of pregnancy under conditions that pose a risk to the woman's mental health and well-being. The Supreme Court of India has affirmed these rights, emphasizing the importance of considering the woman's current health, her life's conditions, and her future well-being while making such decisions. Therefore, it is clear that a pregnant woman's bodily autonomy and right of self-determination is an intrinsic part of her fundamental rights enshrined under Article 21 of the Constitution.”

21. Keeping in mind the overall facts and circumstances of the case, the wish and desire of minor as well as her mother and the opinion given by Medical Board, which also permits termination of pregnancy, the concerned hospital i.e. DDU Hospital is directed to carry out procedure of medical termination of pregnancy at the earliest with the following directions: -

- (i) Petitioner would be permitted to get herself admitted at DDU Hospital today itself on the strength of present order.
- (ii) Let the aforesaid procedure be carried out by a team of competent doctors in accordance with the provisions of MTP Act and the relevant Rules and Regulations and Guidelines prescribed for the



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aforesaid purpose.

(iii) Complete record of such procedure, performed upon the minor for the purposes of termination of said pregnancy, shall be maintained by the Medical Board. The tissue of the fetus would be preserved as same might be required for DNA profile and for investigational purposes.

(iv) Needless to say, State shall bear all the expenses necessary for the termination of the pregnancy of the minor in question and her stay at the hospital during such period. The expenditure towards post-operative period shall also be borne by the State.

(v) If the child is born alive, Medical Superintendent, DDU Hospital in conjunction with the State Authorities would ensure that every possible and feasible assistance is offered to such child. Intimation in this regard shall be given to the concerned Child Welfare Committee and as and when so required, the further directions be sought from Child Welfare Committee.

(vi) In that case, as per wish of minor and her mother, such child be given in adoption as per prescribed procedure.

22. Present petition stands disposed of in aforesaid terms.

23. A copy of this order be given *dasti* under the signatures of the Court Master.

(MANOJ JAIN)
JUDGE

MARCH 10, 2026/dr/js