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WP-20446-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VISHAL MISHRA

ON THE 16th OF JUNE, 2025WRIT PETITION No. 20446 of 2025*PROSECUTRIX X**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

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Appearance:

Shri Vijay K. Shrivastava - Advocate for petitioner.

Shri Abhishek Singh - Govt. Advocate for respondents/State.

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ORDER

This petition has been filed seeking the following reliefs :

- (i) This Hon'ble Court be pleased to give order for abortion of petitioner in the interest of justice.*
- (ii) This Hon'ble Court be pleased to direct the Police Station Kolgawan to take action against the accused according to law.*
- (iii) Any other relief which this Hon'ble Court found fit and fine in favour of petitioner in interest of justice.*

2. The facts of the case, in substance, are that the prosecutrix is minor aged around 17 years. It is alleged that she was sexually assaulted and raped by accused against which an FIR (Annexure P/4) has been registered. After some time, prosecutrix fell ill following which she was taken to the hospital where it was found that she is pregnant. The medical prescription in terms of Annexure P/3 indicates that she is carrying pregnancy of 20-22 weeks. Hence, this petition has been filed by the father of the prosecutrix who has sought permission of this Court for medical termination of pregnancy of his daughter who is a rape victim.

3. It is argued that the petitioner being a rape victim, is having every right



to get the termination of her pregnancy. A coordinate Bench of this Court vide order dated 12.06.2025 took note of the said aspect of the matter and directed the State Counsel to call for a report in terms of Section 3 of the Medical Termination of Pregnancy Act, 2021 . The report of the Medical Board is produced before this Court which reads as follows :

उपरोक्त विषयांतर्गत निवेदन है कि इस कार्यालय के पत्र क्रमांक 2753 दिनांक 14/06/2025 के द्वारा माननीय म.प्र. उच्च न्यायालय में दायर याचिका क्रमांक 20446 ऑफ 2025 के अंतर्गत पीडित बालिका अंजली बसोर का मेडिकल परीक्षण, मेडिकल बोर्ड से कराया जाकर बोर्ड द्वारा दी गई रिपोर्ट एवं अभिमत महोदय की ओर प्रेषित किया गया था, जिसके तारतम्य मे महोदय द्वारा आज दिनांक 16/06/2025 को दूरभाष पर दिये गये निर्देशानुसार चाही गई जानकारी एवं बोर्ड का अभिमत निम्नानुसार है -

उक्त नाबालिग बालिका अंजलि बसोर को सुश्री अभिलाषा नायक, उप-निरीक्षक, थाना कोलगवां के द्वारा दिनांक 14.06.2025 को मेडिकल बोर्ड के समक्ष जिला चिकित्सालय सतना में प्रस्तुत किया गया था, जिसका विस्तृत परीक्षण बोर्ड द्वारा किये जाने के उपरांत पाया गया कि उक्त नाबालिग बालिका जिसकी उम्र 16 वर्ष 11 माह है, वर्तमान में गर्भवती है तथा उसके गर्भ की अवधि लगभग 24 सप्ताह की है। साथ ही उसे क्लीनिकली हल्का एनीमिया (खून की कमी) प्रतीत होता है। बालिका के परिजनों की चिकित्सकीय गर्भपात हेतु सहमति उपरांत उसे चिकित्सालय में भर्ती कर विस्तृत रक्त जांच के पश्चात आवश्यकतानुसार ब्लड ट्रान्सफ्यूजन देने की आवश्यकता पड सकती है, जिसके पश्चात् ही सुरक्षित ढंग से उसका चिकित्सकीय गर्भपात कराया जा सकेगा।

4. From a perusal of the report so submitted, it appears that the examination has been conducted by the Medical Board including Gynecologists, Expert medicine and Pediatrician. It is seen that in the context of abortion, a blood transfusion may be needed in case of complications. The report is taken on record. However, as there is a bar under the Medical Termination of Pregnancy Amendment Act, 2021. For terminating pregnancies exceeding 24 weeks, it is observed that termination can be performed with all the explained risk of the anticipated and unanticipated



complications in relation to termination of Rh negative teenage pregnancy (high risk), provided risk of termination is same at this gestation and full term pregnancy. The report clearly indicates that the pregnancy can be terminated subject to certain risks. The risk factors will always be explained to the petitioner.

5. The relevant provisions under the Medical Termination of Pregnancy Act, 1971 which deal with the cases of termination of pregnancy are 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) ...

(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) ...

...

5. Sections 3 and 4 when not to apply. - (1) The provisions of Section 4, and so much of the provisions of sub-section (2) of Section 3 as relate to the length of the pregnancy and the opinion of not less than two registered medical practitioners, shall not apply to the termination of a pregnancy by a registered medical practitioner in a case where he is of opinion, formed in good faith, that the termination of such pregnancy is immediately necessary to save the life of the pregnant woman.

6. The Hon'ble Supreme Court in a series of judgments had an occasion to consider the aspect of termination of pregnancies exceeding 24 weeks and



in the case of X vs Principal Secretary, Health and Family Welfare Department reported in AIR 2022 SC 4917, the Hon'ble Supreme Court has considered the aforesaid aspect of the matter including the choice of the woman to get the pregnancy terminated and other socio-economic factors including the physical health condition of the woman has permitted for terminating the pregnancy. The aforesaid judgment was again followed by the Hon'ble Supreme Court in the case of XYZ vs State of Gujarat and others, reported in 2023 SCC OnLine SC 1658, wherein the Hon'ble Supreme Court taking note of several aspects of the matter has permitted for termination of pregnancy.

7. In the present case, the petitioner is a rape victim. She was minor at the relevant time. She is suffering from some physical disability as has been pointed out in the report. Permitting for carrying out the pregnancy of a woman who is not in a position to manage herself will be creating great problems to her in future life. Even the other family aspects are also required to be considered.

8. Under these circumstances and following the judgments passed by the Hon'ble Supreme Court in the aforesaid cases, this Court deems it appropriate to permit the termination of pregnancy of the petitioner-prosecutrix subject to the following conditions:

- (i) The procedure of termination of pregnancy will be carried out in the presence of the expert team of doctors. The expert doctors will explain to the family members as well as the petitioner (prosecutrix) the risk of getting the termination of her pregnancy



and also other factors.

(ii) Every care and caution will be taken by the doctors while terminating the pregnancy. All medical attention and other medical facilities including that of a presence of a Pediatrician as well as a Radiologist and other required doctors will be made available to her.

(iii) The post operative care up to the extent required, will be extended to the petitioner. It will be the duty of the State Government to take care of the child, if born alive.

(iv) The doctors will also ensure that a sample from the fetus is protected for DNA examination and as and when required will be handed over to the prosecution for using in the criminal case itself.

9. At this stage, petitioner's counsel submits that the petitioner (prosecutrix) is available to appear before the doctors tomorrow. Hence, she may appear before the doctors tomorrow and a specialized team of doctors to take a decision when to terminate the pregnancy. All necessary care and caution be taken by the doctors while carrying out the procedure for termination of pregnancy.

10. The petition is **disposed of** in above terms. No order as to costs.

(VISHAL MISHRA)
JUDGE

VV