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

% ***Date of Decision: 30th June, 2025***

+ W.P.(CRL) 1925/2025

MINOR A THR HER MOTHER S

.....Petitioner

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

versus

STATE & ANR.

.....Respondent

Through: Mr. Sanjay Lao, Standing Counsel
(Crl.) with Mr. Abhinav Kumar and
Mr. Aryan Sachdeva, Advocates for
State with SI Neetu Yadav, PS Maidan
Garhi

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. The present petition has been filed by *Minor A* through her mother.
2. Minor is sixteen years of age, her date of birth being 15.04.2009.
3. Minor is, reportedly, victim of sexual assault and is currently at an approximate 26 weeks gestational period.
4. By virtue of present petition, she seeks intervention of this Court for termination of her pregnancy.
5. Present petition was taken up by this Court on 27.06.2025 and keeping in mind the urgency cited by the petitioner and after careful perusal of the averments and allegations appearing in FIR No. 312/2025 PS Maidan Garhi, this Court requested All India Institute of Medical Sciences, New Delhi (AIIMS) to constitute a Medical Board and to send requisite report to this Court.



6. Report has been received from AIIMS, New Delhi in a sealed cover. Court Master has produced the same and the report has been opened up.
7. Report reads as under:-

ALL INDIA INSTITUTE OF MEDICAL SCIENCES

Ansari Nagar, New Delhi-110029

No. F.2-63/Medical Board/2025-Estt.(H.) Date: 28.06.2025

Subject: Report of the medical board at AIIMS New Delhi for medical examination of Victim Ms. 'A' regarding the necessity and feasibility of the Medical Termination of Pregnancy (MTP) in MLC No. 4883/2025 dated 23.06.2025, Case FIR No. 312/2025, dated 24.06.2025, U/s 65(1)/69 BNS, 4 POCSO Act, P.S. Maidan Garghi, New Delhi (Currently admitted in MCH Block, AIIMS New Delhi vide UHID No. 108409743).

Form D (Sub-Clause (b) of rules 3A)

Details of the woman seeking termination of pregnancy:

- 1. Name of the woman: Victim 'A'*
- 2. Age: 16 years*
- 3. Registration/Case Number: UHID NO. 108409743*
- 4. Additional review done at AIIMS:*

<i>S. No.</i>	<i>Investigation done</i>	<i>Key Finding</i>
<i>1.</i>	<i>Ultrasound done at AIIMS on 24.06.2025</i>	<i>Ultrasonography suggest:</i> <ul style="list-style-type: none"><i>• SLIUF present of GA 26 weeks 2 days. No gross congenital anomalies seen.</i>

- 5. Opinion by the Medical Board for termination of pregnancy:*

- a) Allowed*
- b) Denied (✓)*

- 6. Justification for the decision:*

The Medical Board, after thorough clinical assessment, including obstetric ultrasound and psychiatric evaluation is of the opinion that the pregnancy is currently 26 weeks and 6 days and the fetus is currently viable (reasonable chance of survival even at the present time) with no gross congenital malformations. At this gestational age, medical termination of pregnancy, if undertaken, entails significant risks, including a higher likelihood of caesarean section, which could adversely affect her future reproductive health. The medical board feels

that continuation of the pregnancy for at least 8 more week is expected to offer a more favourable neonatal outcome. Victim Ms A has been offered the option of hospital admission and monitoring, to optimize her health prior to delivery.

Additionally, the victim Ms. A has been identified as a thalassemia trait carrier. In the interest of fetal health, it is medically advisable that the accused be tested for the same, and if positive, prenatal testing of the fetus be planned to rule out thalassemia major.

In case the Hon'ble Court considers permitting termination of pregnancy at this stage, clear guidance would be necessary on the management of the live fetus/neonate, particularly with respect to decisions on feticide (if permissible under law) or adoption post-delivery, given the viability of the fetus at this gestational age.

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

- a. Yes (✓)
- b. No ()

8. Thus, it is quite obvious as per evaluation of the Medical Board, the pregnancy is, currently, at 26 weeks and six days.

9. The fetus is, reportedly, viable, with no gross congenital malformations.

10. As per the above extracted medical opinion, in view of the advanced gestational age, there is higher likelihood of caesarean section, which may adversely affect the future reproductive health of the minor in question. Medical Board has, therefore, given opinion of denial of such termination of pregnancy.

11. However, at the same time, it has also been opined by the Medical Board that in case the Court considers permitting such termination of pregnancy, clear direction would be required for management of live fetus/neonate particularly with respect to the decisions on feticide (if permissible under law) or adoption post-delivery.

12. Fact, however, remains that physical fitness of the minor, who is seeking termination of her pregnancy, is not in debate and the Medical Board has opined that she is physically fit enough.

13. Mother of the minor petitioner was present on the last date of hearing and is present today as well. She reiterates that even her daughter is not interested in continuing with the aforesaid pregnancy. She also reaffirms her such decision and wants the pregnancy in question to be terminated.

14. Undoubtedly, the gestational period is beyond 24 weeks.

15. 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

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

16. 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 apparently imaginable.

17. 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.

18. 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.

19. This Court *Minor S (Thr. Mother M) Vs. State & Anr.: W.P. (Crl.) No. 1804/2025: (DoD: 29.05.2025)* 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.*

20. This Court has also gone through *Venkatalakshmi v. State of Karnatka & Ors.: Civil Appeal No. 15378 of 2017* (supra) 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 pregnancy.

21. Mr. Anwesh Madhukar, learned counsel for petitioner also relies upon another judgment passed by this Court in *Minor S (Thr. Father B): 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.

22. The situation in the present case is unfortunate from one another angle also.

23. The petitioner was subjected to sexual assault for the first time on the occasion of Diwali Festival of the year 2024. However, she did not divulge about any such assault upon her to anyone. She was, again, sexually assaulted, *albeit*, by another person in the month March, 2025.

24. She remained completely oblivious of the fact that she had become pregnant and when she visited a doctor on 21.06.2025 with her sister, she learnt about her such pregnancy. When her family members came to know about the same, they inquired about everything from her and consequent thereto, she disclosed about the incident which resulted in registration of FIR on 24.06.2025.

25. Thus, even when the FIR was registered in the present matter, the gestational age had already breached the permissible limit of 24 weeks.

26. Thereafter, the petitioner has not caused any delay of any kind whatsoever and the present petition has been filed by her through her mother seeking termination of pregnancy. Her mother, as already noticed above, is very clear in her mind and submits that even her daughter is not interested in continuing with the pregnancy.

27. Investigating officer of the case is present in Court and informs that minor is still admitted in AIIMS and lady Ct. Sunita No. 2368/SD is with her at AIIMS and in order to reassure about the consent coming from the minor as well, this Court had a telephonic conversation with the minor with the help of mobile of the investigating officer. The minor, during such telephonic call, was found completely certain in her decision of termination of pregnancy. She was, though, made clear about the possible adverse conditions which may arise on account of such termination, she did not want to continue with pregnancy, at any cost.

28. It is also important to mention that when the matter was reported to the police for the first time, minor had, merely, informed about the sexual assault which took place in the month of March, 2025. For such alleged sexual assault, the concerned accused has already been apprehended.

29. Fact, however, remains that when the statement of minor was got recorded under Section 183 BNS (corresponding Section 164 Cr.P.C.), she, in a very categorical manner, revealed about the sexual assault which took place at the time of Diwali 2024. Accused responsible for said sexual assault is yet to be arrested.

30. Fact remains that in the view aforesaid revelation made by minor in her aforesaid statement made before the learned Judicial Magistrate, the investigating agency also recorded her supplementary statement.

31. All these facts become important simply for the reason that as per the report of the Medical Board, the minor has been identified as a thalassemia trait carrier and, therefore, the Medical Board also advised that concerned accused may also be tested for the same and if positive, prenatal testing of the fetus be planned to rule out thalassemia major.

32. Though the Medical Board has not given positive opinion for termination of pregnancy, it also observed that if it is permitted by the Court, let there be clear directions for management of live fetus/neonate etc.

33. It is not difficult for this Court to comprehend and understand the grave mental injury and trauma inflicted upon the mind of minor, on account of sexual assault in question.

34. Mr. Anwesh Madhukar, learned counsel for petitioner draws the attention of this Court to *Mrs. X Vs. GNCTD & Anr.: W.P. (C) No. 16607/2022(DoD: 06.12.2022)* and submits that though the aforesaid case related to termination of pregnancy where fetus was, eventually, found to be suffering from several complexities and abnormalities, the gestation age was 33 weeks and the concerned Medical Board had also opined against the termination of pregnancy but keeping in mind the various aspects of the case, this Court directed termination of pregnancy. He submits that the situation in the present case is rather graver in nature as the minor herein is victim of sexual assault and such mental trauma and deep anguish in the mind of minor and her family members can be easily fathomed and, therefore, irrespective of such opinion, it is a fit case where the pregnancy needs to be terminated. He also contends that had the minor come to know earlier about the fact that on account of such sexual assault, she has become pregnant, she would have immediately apprised her family members about the same and would have also come to the Court without any delay.

35. Evidently, the minor learnt about such condition only on 21.06.2025, when she went to a doctor.

36. The physical fitness of the minor, for the purpose of undertaking termination of pregnancy, is not in debate as such physical fitness has even

been certified by the Medical Board of AIIMS. The risk involved in the entire process has been duly explained *in vernacular* to the mother of minor who is present in Court and has also been communicated to the minor during the telephonic conversation and despite understanding the aforesaid risk, they both seek termination of the pregnancy, while reiterating the fact that it has caused serious mental trauma to them.

37. While considering the bodily autonomy of a woman, this Court in *Mrs. C Vs. The Principal Secretary Health and Family Welfare Department, Government of NCT of Delhi and others* 2024:DHC:6201, observed as under:-

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.

38. Thus, keeping in mind the overall facts and circumstances of the case and the fact that minor is victim of sexual assault and is not interested in continuing with the pregnancy in question and the fact that minor is still admitted in AIIMS, New Delhi, writ petition is disposed with the following directions:

- (i) The Medical Superintendent, AIIMS, New Delhi shall make necessary arrangements for medical termination of pregnancy of the minor and in order to avoid any further delay, while taking all the requisite precautions, safety procedures etc. let the abovesaid procedure be carried out tomorrow i.e. on 01.07.2025.



(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 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 would 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, AIIMS 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) Since the mother of minor seeks termination of the pregnancy, she submits that in case the child is born alive, she would have no objection if such child is, eventually, given in adoption as per prescribed procedure.

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

MANOJ JAIN, J
(VACATION JUDGE)

JUNE 30, 2025/dr/shs

