



\$~74

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% ***Date of Decision: 13th July, 2026***

+ W.P.(CRL) 2009/2026

MINOR A THR HER MOTHER PPetitioner

Through: Mr. Anwesh Madhukar with Ms.
Prachi Nirwan, Mr. Pranjal,
Advocates.

versus

THE STATE OF NCT OF DELHI AND ANRRespondent

Through: Mr. Amol Sinha, ASC with Mr.
Ashvini Kumar, Mr. Kshitiz Garg,
Advocates.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Present petition has been filed by a girl of seventeen years of age.
2. She is a victim of a sexual assault and seeks direction for termination of her pregnancy.
3. The petition has been filed by her through her mother.
4. The alleged incident is of 22.03.2026.
5. FIR was lodged by the victim herself, in which she claimed that she was sexually assaulted and raped by her *fufa* (husband of her paternal aunt) who forcibly dragged her into his home, switched off the lights and subjected her to sexual assault. Since she had been threatened by the perpetrator of the crime that if the abovesaid incident was revealed to anyone, she would be killed, she remained silent for two-three months. However, when her menstrual cycle stopped, she informed her mother about the abovesaid fact and, when they saw a doctor, it came to fore that she was pregnant.
6. It was in the abovesaid backdrop of the facts that FIR was got



registered on 07.07.2026.

7. Mr. Anwesh Madhukar, learned counsel for petitioner submits that the petitioner and her mother are interested in termination of foetus for the reason that such pregnancy would result in grave mental anguish and trauma, not only to the victim, but also to the entire family and, therefore, victim seeks enforcement of her *right to life* as enshrined under Article 21 of Constitution of India.

8. After registering the abovesaid FIR and recording of statement of the victim, the victim was taken to *Lal Bahadur Shastri (LBS) Hospital, Khichripur, Delhi* for medical examination, where it was confirmed that she was pregnant.

9. She was, later, shifted to *Guru Teg Bahadur (GTB) Hospital, Shahadara, Delhi*.

10. A Medical Board was constituted by GTB Hospital, which has already given its report on 10.07.2026.

11. The termination is being sought as the pregnancy in question is beyond 24 weeks.

12. Mr. Madhukar, learned counsel for petitioner is, however, not certain about the decision of the Medical Board.

13. Learned Additional Standing Counsel for the State, who appears with the concerned IO, has brought the entire file which also contains the resolution of the Medical Board, headed by Dr. Sandhya Jain (officiating HOD).

14. The child (victim herein) was assessed by the Medical Board and the following aspects were considered by the Board which read as under:-

“The Medical Board Meeting was called in Obstetrics and Gynaecology



departmental library 7th floor, MCH block on 10/07/2026 at 11 am, under the chairmanship of officiating HOD Department of Obstetrics and Gynaecology, for decision of MTP on the request of mother, for a minor sexual assault survivor referred from LBSH bearing MLC number 384/26 in connection with FIR No. 0261

The meeting was attended by following:

- | | |
|--|------------------|
| 1. Dr. Sandhya Jain (Officiating HOD) | Chairperson |
| 2. Dr. Rashmi Gera (CMO NFSG) E.P. incharge | Member secretary |
| 3. Dr. Abha Sharma (Sr. Specialist. OBG) | Member |
| 4. Dr. Sumit (Assistant prof., Radiology) | Member |
| 3. Dr. Ravi Sachan (Prof., Paediatrics) | Member |
| 6. Dr. Seema Rani (Assistant professor, Psychiatry) | Member |
| 7. Dr. Archana Choudhary (Consultant - Unit 3) | Co-opted member |
| 8. Dr. Vikram Bhaskar (Professor, Paediatrics and nodal officer QAC) | |

Member The child was assessed by the medical board.

- Client referred from LBSH in view of minor with advanced Period of gestation needing board approval for termination of pregnancy.
- Client does not have Aadhar card or birth certificate. Age verified by class certificate. Age as per class 1 certificate is 13 years 9 months.
- Age changed by hand on the admission sheet by unit consultant in board's presence.
- Patient is in stress but does not require treatment - as opined by psychiatry board member.
- All the members of the board unanimously agreed upon termination of pregnancy as requested by the guardian (mother Mrs. pooja)
- Informed consent was read out and explained to the client and guardian in her own language in the presence of WHC Mrs. Poonam (2810)"

15. As per the final opinion of the Medical Board, the termination of the pregnancy has been allowed. The Board has also observed that she is physically fit to undergo termination of pregnancy. When ultrasound examination was carried out on 08.07.2026, it did not indicate any congenital abnormalities and other relevant vitals were found to be normal. As per the ultrasound report, the period of the pregnancy is of 25 weeks and 5 days. With respect to the fitness of the victim the relevant observations are as under:

“6. Opinion by medical board for termination of pregnancy:

- (✓) a) Allowed
b) Denied



Justification for the decision: Minor sexual assault survivor

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

- (✓) a. Yes
b. No”

16. The mother of the Victim is present today and she has been duly identified by the IO and, before proceeding any further in the matter, this Court had an interaction with her in the Chamber and she was duly apprised about the various aspects related to request for termination of pregnancy of her daughter. The Victim is admitted in the Hospital and she has also joined the proceedings with the help of mobile device of a lady constable, deputed at the aforesaid hospital.

17. They both in no uncertain terms, want termination of pregnancy.

18. 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)

19. 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, clearly, comprehensible.

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

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

“
.....

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.”*

22. In *Venkatalakshmi v. State of Karnatka*: 2017 SCC OnLine SC 2156, 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 all the safety aspects be kept in mind, while terminating such pregnancy.

23. Mr. Anwesh Madhukar, learned counsel for the petitioner, while referring to one decision given by this Court in *A1 v. State*, 2025 SCC OnLine Del 4645 has also relied upon another judgment passed by this Court in *X v. State (NCT of Delhi)*, 2025 SCC OnLine Del 2506.

24. There is no documentary proof with respect to the exact age of the Victim. As per the FIR, though, victim claimed herself to be of 17 years of age, the Medical Board, somehow, mentioned her age as 13 years and 9 months.

25. Her mother, during the interaction, stated that there is no documentary proof with respect to her age.

26. As per specific allegations appearing in the FIR, the case is of sexual assault/rape and victim in her statement also categorically claimed that sexual assault was forcible in nature; against her will and consent.

27. There is nothing in the report of the Medical Board or ultrasound which may indicate that the victim is physically unfit to undergo medical termination of pregnancy. The report, as already noticed above, indicates her physical fitness to undergo such termination and all the members of the Medical Board have also unanimously, agreed upon termination of pregnancy as requested by her guardian i.e. her mother.

28. This Court comprehends 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.”

29. 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. GTB Hospital is directed to carry out procedure of medical termination of pregnancy at the earliest with the following directions: -

- (i) Petitioner, who is already admitted at GTB Hospital, is allowed termination of her pregnancy.
- (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 foetus 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, GTB



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. In such a situation, as per wish of minor and her mother, such child may be given in adoption as per prescribed procedure.

30. Present petition stands disposed of in aforesaid terms.
31. A copy of this order be given *dasti* under the signatures of the Court Master.

(MANOJ JAIN)
JUDGE

JULY 13, 2026/sw/pb