



2026:DHC:9223



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% **Date of Decision: 15th October, 2026**# **CNR No. DLHC010501732026**+ **W.P.(CRL) 3287/2026****MINOR P THR HER MOTHER A** Petitioner

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

STATE & ANR. Respondents

Through: Ms. Rupali Bandhopadhyaya, ASC with
Mr. Abhijeet Kumar, Advocate for
the State.
(M): 9818163407
7840058325
Email: asc.rbandhopadhyaya@gmail.com
WSI Deepika, PS DBG Road.
SHO/Inspector Randhir Singh.

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA
MINI PUSHKARNA, J. (Oral):

1. The present petition has been filed under Article 226, read with Article 21 of the Constitution of India ("Constitution"), as well as Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ("BNSS"), for the issuance of writ of *mandamus* or any other writs, directing respondent no. 1



and 2, to medically terminate the pregnancy of the petitioner.

2. Learned counsel appearing for the petitioner submits that the present petition has been filed on behalf of the petitioner, who is minor girl of 16 years of age, through her mother.

3. He submits that the petitioner is a victim of rape, and is currently at an approximate 31 weeks of gestational period. The petitioner, as well as her mother, wishes to terminate the pregnancy, since its continuation would result in grave mental injury to the minor petitioner.

4. Thus, by way of the present petition, the intervention of this Court has been sought *qua* the termination of pregnancy of the petitioner, since the current gestational period of the petitioner is beyond the permissible limits under the Medical Termination of Pregnancy Act, 1971 (“MTP Act”), as amended by the MTP (Amendment) Act, 2021.

5. Learned counsel for the petitioner submits that the petitioner hereby seeks to invoke her ‘*Right to Life*’ as enshrined under Article 21 of the Constitution, for conducting the medical termination of her pregnancy, as rejection of the said request would cause grave mental injury and trauma, particularly, in view of her young age and the circumstances in which the pregnancy was caused.

6. Learned counsel appearing for the State has handed over to this Court the report of the Medical Board constituted at Lady Hardinge Medical College and Hospital, New Delhi, wherein, it has been stated that the petitioner is physically fit for undergoing termination of pregnancy.

7. However, the report of the Medical Board states that the baby is likely to be born alive.

8. The report as handed over by learned counsel for the State is taken on



record.

9. Learned counsel appearing for the petitioner, upon instructions from the mother of the petitioner, who is present in person before this Court, categorically submits that the family wishes to go ahead with the medical termination of pregnancy, forthwith.

10. This Court notes that the Supreme Court, in various cases, has permitted medical termination of pregnancy even beyond the statutory limit of 24 weeks, as stipulated in the MTP Act.

11. Pertinently, a coordinate bench of this Court, *vide* judgment dated 17th April, 2025, titled as ***Minor S (Thr. Father B) Versus State & Anr., 2025: DHC: 2710***, allowed the termination of pregnancy where the gestational period exceeded 27 weeks.

12. As per the decision of the Supreme Court rendered in ***Venkatalakshmi Versus The State of Karnataka & Ors., 2017 SCC OnLine SC 2156***, termination of pregnancy was allowed, where, the gestational period was 26 weeks.

13. Even in the case of ***Mrs. X Versus GNCTD & Anr., W.P. (C) 16607/2022***, decided *vide* order dated 06th December, 2022, the termination of pregnancy was allowed, where the gestational period was 33 weeks.

14. Further, in the case of ***Minor S through her guardian B Versus State, Government of NCT of Delhi, W.P. (Crl) 2763/2026***, decided *vide* order dated 08th September, 2026, termination of pregnancy was allowed, where the gestational period had exceeded 30 weeks.

15. It is to be noted that the Supreme Court in the case of ***S versus The Union of India & Ors., SLP (C) No. 14454/2026***, *vide* judgment dated 24th April, 2026, allowed termination of pregnancy wherein the gestational



period was 28 weeks. It was held that while exercising jurisdiction under Article 226 or Article 32 of the Constitution, Constitutional Courts are not constrained by the statutory limitations prescribed under the MTP Act and must primarily consider the welfare, dignity, bodily integrity and reproductive autonomy of the pregnant woman, particularly, in cases involving minors and unwanted pregnancies. The Supreme Court recognised that reproductive choice forms an integral part of the fundamental rights guaranteed under Article 21 of the Constitution and held that no woman, much less a minor rape survivor, can be compelled to carry an unwanted pregnancy to full term against her wishes, merely because the statutory gestational limit has been crossed.

16. The Supreme Court has further emphasised that in cases of unwanted pregnancy, the focus must remain on the welfare and autonomy of the pregnant woman rather than the interests of the unborn child. The absence of foetal abnormality, the advancement of gestational age, or the absence of a diagnosed psychiatric disorder cannot by themselves constitute grounds to deny termination. The relevant portions of the decision rendered in *S (Supra)* are reproduced as under:

“xxx xxx xxx

11. The Court must, while exercising jurisdiction under Article 226 or Article 32 of the Constitution of India, therefore, prioritize the best interests of the minor mother-to- be in the present case, over the procedural and statutory limitations under the MTP Act. If the interest and welfare of the mother-to-be are to be given due consideration, her reproductive autonomy must be accorded the highest importance. This is particularly having regard to the facts and circumstances of the present case.

11.1 The right to make decisions concerning one’s body,



particularly in matters of reproduction, is an integral facet of personal liberty and privacy under Article 21 of the Constitution of India. This right cannot be rendered ineffective by imposing unreasonable restrictions, especially in cases involving minors and unwanted pregnancies, such as in the instant case.

11.2 No court ought to compel any woman and more so a minor child, to carry a pregnancy to full term against her express will. Such compulsion would not only disregard her decisional autonomy but could also inflict grave mental, emotional and physical trauma in case she is compelled to give birth. In these circumstances, denying the relief sought would compel the minor to endure irreversible consequences. Such an approach would be contrary to the constitutional ethos and the settled principles recognizing reproductive choice as a fundamental right. What is of relevance is the choice of the pregnant woman rather than the interest of an unborn child. It is easy to say that if the pregnant woman is not interested in raising the child, she may give away the child in adoption and therefore must be compelled into giving birth to the child. However, that cannot be the correct approach, particularly, in cases where the child to be born is unwanted. In such a situation, directing the pregnant woman to give birth to the child against her wishes and to forcefully continue her pregnancy would negate the welfare of the pregnant woman and make it subordinate to the child yet to be born.

11.3 We find that in cases of unwanted pregnancy, often the decision to terminate is made beyond the statutory period prescribed under the MTP Act owing to several reasons. It is under such circumstances that Constitutional Courts must weigh the circumstances in which a case in relation to the welfare of the pregnant woman has to be considered rather than the child to be born. In fact, under certain grounds, the MTP Act itself permits termination of pregnancy which is therefore recognised in law. The Constitutional Court is approached only when the statutory remedy is not available to a party. Can the Constitutional Court then say that since the statutory remedy is not available, no constitutional remedy would be available. That, in our view, cannot be the approach. A lack of remedy under a statute does not bar a constitutional remedy. The statute codifies a part of the constitutional remedy. If a case is not covered within the four



corners of a statute then, can the constitutional relief be also denied? In our view, in such circumstances, the Constitutional Court ought to weigh all facts and circumstances from the lens of the party who intends to terminate the pregnancy and is willing to undertake the medical risk, rather than compelling her to complete the pregnancy term and give birth to an unwanted child. If the pregnant woman carrying an unwanted pregnancy is compelled to continue such a pregnancy, then the constitutional rights of the pregnant woman would be breached.

11.4 Further, if the Constitutional Court adopts the view that even an unwanted pregnancy must be continued, then instead of approaching the Court for permission, pregnant women would visit illegal abortion centres and secretly undergo termination of such pregnancies which would only make such women more vulnerable and expose them to more dangerous procedures. It is under such considerations that a Constitutional Court must decide what is best in the interest of the pregnant woman, particularly, when the pregnancy is unwanted as in the present case.

xxx xxx xxx”

(Emphasis Supplied)

17. Likewise, in the case of **Minor R Thr Mother H Versus State NCT of Delhi & Anr., 2023 SCC OnLine Del 383**, a Bench of this Court allowed the medical termination of pregnancy, where the gestational period was 24 weeks and 5 days. This Court took note of the fact that termination of pregnancy where a minor is a victim of rape, cannot be reduced merely to be defined as right of a woman sexually assaulted, but also to be recognized as a human right, as it affects the dignified existence of a victim, if the same is not permitted. Thus, it was held that it would not be appropriate to expect the minor rape victim to take the burden of giving birth and raising a child, especially in a situation, where she herself is passing through the age of adolescence.

18. This Court is informed that the minor victim has already been



admitted to the Lady Hardinge Medical College and Hospital, New Delhi.

19. Having regard to the facts and circumstance of the present case, and in light of the opinion of the Medical Board that the petitioner, i.e., the minor victim, is medically fit to undergo the procedure, this Court allows the present petition and permits the medical termination of pregnancy, in the best interest of the minor survivor, subject to the safeguards and directions as set out below:

- I. The procedure for termination of pregnancy shall 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.
- II. Complete record of such procedure, performed upon the minor for the purpose of termination of said pregnancy, shall be maintained by the Medical Board.
- III. Respondent no. 2, i.e., Lady Hardinge Medical College and Hospital, New Delhi, is directed to preserve the tissue of the foetus for the purposes of DNA testing, which would be required with reference to the criminal case which stands registered.
- IV. Respondent no. 1, i.e., the 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. In case the child is born alive, Medical Superintendent, Lady Hardinge Medical College and Hospital, New Delhi in conjunction with the State Authorities, would ensure that medical support, as well as every possible and feasible assistance is offered to such child, and



the child shall be kept in an incubator. Intimation in this regard shall be given to the concerned Child Welfare Committee (“CWC”), and as and when so required, further directions be sought from CWC.

- VI. In that case, as per wish of minor and her family, such child be given in adoption as per prescribed procedure.
 - VII. The identity of the petitioner/minor survivor shall be strictly protected. The respondent authorities, the hospital, the Medical Board and all other persons associated with the proceeding shall ensure that no particulars capable of identifying her, including her name, address photographs and medical records, are disclosed, save to the extent authorised or required by law.
20. At this stage, learned counsel appearing for the petitioner submits that as and when compensation under the Delhi Victim Compensation Scheme, 2018, is released in the favour of the petitioner/minor victim, the same be kept in a Fixed Deposit Receipt (“FDR”), so that the amount is released to the petitioner/minor victim, upon her attaining the age of majority.
21. It is so directed.
22. With the aforesaid directions, the present petition is allowed in the aforesaid terms.
23. Order *dasti* under the signatures of the Court Master.

MINI PUSHKARNA, J

OCTOBER 15, 2026

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