

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

WP(C) No. 2566/2026

Uploaded on: 21.08.2026

Ms. X

.... Petitioner(s)

Through:- Ms. Vasudha Sharma, Advocate

V/s

U.T. of J&K & Ors.

.....Respondent(s)

Through:- Ms. Monika Kohli, Sr. AAG

CORAM: HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE

ORDER

20.08.2026

1. Heard learned counsel for the parties and perused the record.
2. Vide order dated 14.08.2026, this Court directed the respondents to constitute a Medical Board for examination of the petitioner and to furnish a report regarding the gestational age of the foetus as well as the physical and mental health status of the petitioner. Pursuant to the aforesaid direction, the Medical Board examined the petitioner and submitted its report. As per the report, the petitioner is carrying a pregnancy of approximately 20 weeks' gestation. The Medical Board has further opined that the petitioner is physically and mentally fit to undergo the procedure for medical termination of pregnancy and that the procedure may be undertaken at a tertiary care facility.
3. Learned counsel for the petitioner, while referring to **Section 3 of the Medical Termination of Pregnancy Act, 1971** (hereinafter referred to as "the MTP Act"), submitted that the statutory scheme permits termination of pregnancy, subject to fulfilment of the

conditions prescribed thereunder. It was further contended that where the pregnancy is alleged to have been caused by rape, the anguish caused by such pregnancy is statutorily presumed to constitute a grave injury to the mental health of the pregnant woman. Learned counsel further submitted that the petitioner was subjected to sexual assault and, as a consequence thereof, became pregnant. The petitioner does not wish to continue with the pregnancy and has voluntarily and unequivocally expressed her desire to undergo medical termination thereof. It was also submitted that the petitioner is a major and is fully capable of understanding the nature and consequences of the proposed medical procedure and of giving informed consent thereto.

4. Ld. Counsel for the petitioner further submitted that the report of the Medical Board supports the petitioner's prayer. In view of the opinion rendered by the Medical Board and the circumstances in which the pregnancy is stated to have occurred, it was urged that the respondents be directed to facilitate the medical termination of the petitioner's pregnancy at the earliest.
5. Ld. Counsel for the respondents fairly submitted that the Medical Board has furnished a detailed report and has found the petitioner physically and mentally fit to undergo the procedure for termination of pregnancy. It was, however, submitted that since the petitioner has voluntarily consented to the termination of her pregnancy, the precise timing, method and manner of carrying out the procedure ought to be left to the considered medical judgment of the treating

doctors. It was further submitted that the Medical Board comprises four doctors, including a Gynaecologist, and that the relevant medical parameters concerning the proposed termination of pregnancy have duly been considered by the Board.

6. Having heard the counsel for the parties at length, this Court has considered the record, including the report submitted by the Medical Board. In *Sarmishtha Chakraborty and Another v. Union of India*, (2018) 13 SCC 339, the Hon'ble Supreme Court reiterated the significance of a woman's reproductive choice as an integral facet of her personal liberty under Article 21 of the Constitution of India. The right to make reproductive choices is intimately connected with a woman's bodily integrity, dignity and decisional autonomy. In the facts of that case, having regard to the grave risks involved in continuation of the pregnancy, the Hon'ble Supreme Court permitted its termination. The petitioner has also placed reliance upon the judgment of the High Court of Madhya Pradesh, Bench at Jabalpur, rendered on **08.10.2024** in **W.P. No. 31119 of 2024**, reported as **2024 MPHC-JBP:51032**, titled *A Minor v. State of Madhya Pradesh*. In that case, the Court was dealing with a minor victim who had allegedly been subjected to sexual assault/rape by a relative and was subsequently found to be carrying a pregnancy of approximately 26 weeks. The said decision has been relied upon by learned counsel for the petitioner in support of the proposition that, while considering a prayer for medical termination of pregnancy arising out of sexual assault, the Court is required to give due weight

to the reproductive autonomy, bodily integrity, dignity and mental well-being of the pregnant woman, subject always to the medical opinion concerning the safety and feasibility of the procedure.

7. The statutory provisions governing the controversy also deserve consideration. The MTP Act, as amended, recognises that, subject to the conditions stipulated therein, a pregnancy may be terminated by a registered medical practitioner. The statutory framework further recognises the peculiar mental trauma associated with a pregnancy alleged to have been caused by rape and raises a presumption, for the purposes of the Act, that the anguish caused by such pregnancy constitutes a grave injury to the mental health of the pregnant woman.

8. The legislative scheme, therefore, cannot be construed divorced from the constitutional values of dignity, privacy, bodily integrity and reproductive autonomy. The decision whether to continue or terminate a pregnancy, within the framework permitted by law, has an intimate bearing upon the bodily and decisional autonomy of the pregnant woman. Where the pregnancy is stated to be the consequence of sexual assault, the Court must remain particularly conscious of the mental trauma that compelling continuation of such pregnancy may entail.

9. In the present case, the petitioner is a major. She has unequivocally expressed her unwillingness to continue with the pregnancy and has voluntarily sought its medical termination. There is nothing on record to suggest that her decision is involuntary or that she lacks the

capacity to understand the nature and consequences of the proposed procedure. More importantly, pursuant to the specific directions issued by this Court, the petitioner has been examined by a duly constituted Medical Board. The Board has assessed her physical as well as mental condition and has opined that she is fit to undergo medical termination of pregnancy. The Board has further stated that the procedure can be undertaken at a tertiary care facility. Thus, there is no medical opinion presently before this Court contradicting termination of the pregnancy.

10. At the same time, the Court is conscious that the actual method, timing and manner in which the termination is to be undertaken fall within the domain of medical science. It would, therefore, neither be appropriate nor prudent for this Court to prescribe the particular medical procedure to be adopted. Such matters must necessarily be left to the judgment of the treating doctors, who shall act in accordance with the applicable statutory provisions, medical protocols and the petitioner's clinical condition.
11. Accordingly, having regard to the gestational age recorded by the Medical Board, the petitioner's unequivocal consent, the circumstances in which the pregnancy is stated to have occurred, and, above all, the opinion of the Medical Board that she is physically and mentally fit to undergo termination of pregnancy, this Court is of the considered view that the prayer made in the petition deserves to be allowed. Consequently, the writ petition is allowed. The respondents are directed to make all necessary

arrangements for medical termination of the petitioner's pregnancy at an appropriate tertiary care Government medical facility, subject to her informed and voluntary consent, and as expeditiously as medically feasible.

12. The procedure shall be undertaken under the supervision of competent medical practitioners. The treating doctors shall be at liberty to determine the appropriate method, timing and manner of termination, keeping in view the petitioner's health, safety and well-being and the applicable medical protocols. All necessary medical care, including pre-procedure and post-procedure care, shall be made available to the petitioner.

13. Since the pregnancy is stated to have arisen from an alleged offence of sexual assault, the concerned medical authorities shall also take such steps with regard to preservation of relevant biological/foetal material, if medically and legally required for the purposes of investigation, DNA examination or trial, strictly in accordance with law and the applicable forensic protocol. Such material, if preserved, shall be appropriately sealed, labelled and handed over to the investigating agency while maintaining the requisite chain of custody.

14. The respondents and all concerned authorities shall ensure that the identity, dignity and privacy of the petitioner are protected at every stage. Her identity shall not be disclosed except to the extent indispensable for medical treatment, investigation or proceedings in accordance with law.

15. It is clarified that the observations made herein are confined to the petitioner's prayer for medical termination of pregnancy and shall not be construed as expressing any opinion on the merits of the criminal proceedings arising out of the alleged sexual assault. In view of the gestational age of the pregnancy and the nature of the relief granted, the respondents shall act upon this order forthwith, without awaiting a certified copy thereof.
16. The petition, along with all pending application(s), if any, stands **disposed of** in the above terms.

JAMMU
20.08.2026
Suraj K. Singh



(Sanjay Parihar)
Judge