



\$~104

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

CNR No. DLHC010400452026

+ **W.P.(CRL) 2582/2026**

MINOR P (THR. HER MOTHER C)

.....Petitioner

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

versus

STATE & ANR.

.....Respondents

Through: Mr. Yasir Rauf Ansari, ASC.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

%

24.08.2026

1. The present writ petition has been filed under Article 226 of the Constitution of India ("Constitution"), read with Article 21 thereof, as well as Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ("BNSS"), by the mother of the petitioner, who is stated to be a minor girl aged 13 years and a survivor of penetrative sexual assault, seeking issuance of a writ of mandamus or any other appropriate writ, order or direction, directing respondent nos. 1 and 2 to medically terminate the pregnancy of the petitioner. The petition prays for the following reliefs:

"i) Direct Respondent No. 2 to constitute a duly constituted Medical Board in terms of the Medical Termination of Pregnancy Act, 1971, as amended from time to time, for the purpose of examining the Petitioner/Victim and assessing the feasibility and safety of medical termination of her pregnancy,



having regard to her physical and mental health and overall medical condition; and

ii) Direct Respondents No.1 & 2 to medically terminate the pregnancy of the Victim/Petitioner in view of the Explanation No. 2, Section 3(2) of the Medical Termination of Pregnancy Act, 1971 (as amended till date). And

iii) Direct Respondent No. 1 to bear all the expenses necessary for the termination of the pregnancy of the Victim, her medicines, food etc; and

iv) Direct the Respondent No. 2 to preserve the terminal foetus for the purposes of DNA testing which would be required with reference to the criminal case which stands registered”

2. It is averred that on 28.02.2026, the petitioner, then a student, was administered laddus by the accused, Mr. Mahavir, who was her school teacher, after her examination had concluded and her friends had gone home. It is stated that upon consuming the same, the petitioner lost consciousness, and upon regaining consciousness at about 5:10 p.m., she found herself on the ground of the classroom, not wearing her dupatta, and experiencing pain in her lower vaginal area. It is further averred that the accused threatened the petitioner against disclosing the incident, and that he had, on prior occasions, subjected her to inappropriate gestures and overtures.

3. It is stated that owing to persistent pain in her legs, the mother of the petitioner got her examined, whereupon an ultrasound conducted at Bharat X-Ray, Tilak Nagar, revealed that the petitioner was 26 weeks 6 days pregnant. The matter was thereafter reported to the police on 17.08.2026, resulting in registration of FIR No. 0319/2026 at PS Tilak Nagar, Delhi under Sections 64(2)(f)/351 of the Bharatiya Nyaya Sanhita, 2023, read with Section 6 of the Protection of Children from Sexual Offences Act, 2012 (“POCSO Act”).

4. The petitioner was subjected to medico-legal examination, and on



19.08.2026, was produced before the Child Welfare Committee (“CWC”), which directed that she be assisted by the Delhi High Court Legal Services Committee (“DHCLSC”) for approaching this Court. A subsequent ultrasonography conducted at DDU Hospital on 20.08.2026 assessed the petitioner to be at a gestational age of approximately 24 weeks 6 days.

5. Learned counsel appearing for the petitioner submits that the continuation of the pregnancy would result in grave mental injury to the petitioner, who is a minor rape survivor, and that the anguish so caused must be presumed to constitute grave injury to her mental health in terms of Explanation 2 to Section 3(2) of the Medical Termination of Pregnancy Act, 1971 (“MTP Act”). It is submitted that both the petitioner and her mother are desirous of termination of the pregnancy, and that any further delay would only compound the physical and psychological trauma already suffered by the petitioner, apart from escalating the medical risk attendant upon a more advanced gestational age.

6. Learned counsel further submits that although the MTP Act, in its ordinary operation, does not contemplate termination of pregnancy beyond the gestational age of 24 weeks save in cases of substantial foetal abnormality under Section 3(2B), the extraordinary constitutional jurisdiction of this Court under Article 226, read with Article 21, has consistently been invoked and exercised to permit termination of pregnancy of minor rape survivors even where the statutory limit stands crossed, having regard to the grave and irreversible consequences of compelling such a survivor to carry an unwanted pregnancy to term. Reliance in this regard is placed, inter alia, on the decisions in *S v. Union of India & Ors.*, SLP(C) No. 14454/2026 (Supreme Court of India, decided on 24.04.2026);



***Venkatalakshmi v. State of Karnataka & Ors.*, Civil Appeal No. 15378/2017 (Supreme Court of India, decided on 21.09.2017); *Minor S (Thr Father B) v. State & Anr.*, 2025:DHC:2710; *Minor R Thr. Mother H v. State (NCT of Delhi)*, 2023 SCC OnLine Del 383; and *Mrs. X v. GNCTD & Anr.*, 2022/DHC/005344.**

7. On advance instructions, Mr. Yasir Rauf Ansari, learned ASC for the State, informs the Court that the Medical Board constituted for examining the petitioner has since submitted its opinion, and that there is no impediment in permitting the medical termination of the petitioner's pregnancy. Learned ASC does not oppose the grant of the relief sought, subject to the procedure being carried out in accordance with the provisions of the MTP Act and the Rules framed thereunder.

8. Before adverting to the precedents cited, it would be apposite to notice the relevant statutory provisions. Section 3(2) of the MTP Act¹, to the extent relevant, reads as under:-

“3. When pregnancies may be terminated by registered medical practitioners.—

(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

¹Medical Termination of Pregnancy Act, 1971, as amended by the Medical Termination of Pregnancy (Amendment) Act, 2021 (Act No. 8 of 2021).



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.”

9. Rule 3B of the MTP Rules, 2003, as amended in 2021, prescribes the categories of women, including survivors of sexual assault or rape and minors, for whom termination between twenty and twenty-four weeks is permissible under Section 3(2)(b). Section 3(2B) of the MTP Act, on the other hand, provides that the gestational limits under sub-section (2) shall not apply in cases where termination is necessitated by substantial foetal abnormalities diagnosed by a Medical Board, and Section 3(3) mandates that in determining whether continuance of the pregnancy would injure the pregnant woman’s physical or mental health, account shall be taken of the actual or reasonably foreseeable environment of the woman.

10. It is not in dispute, and indeed learned counsel for the petitioner fairly acknowledges, that the MTP Act, read strictly, does not by itself provide a statutory pathway for termination of pregnancy beyond twenty-four weeks except in cases of substantial foetal abnormality certified by a Medical Board under Section 3(2B). It is precisely for this reason that the petitioner has been constrained to invoke the extraordinary constitutional jurisdiction of this Court.

11. It is by now well settled that a woman’s right to make reproductive



choices, including the right to terminate a pregnancy, is an integral facet of her personal liberty and dignity under Article 21 of the Constitution. In *Suchita Srivastava v. Chandigarh Administration*,² the Supreme Court held that reproductive autonomy is intrinsic to personal liberty, and that a woman's right to make reproductive choices is an important facet of her right to bodily integrity and privacy.

12. This position was reiterated by a three-Judge Bench in *X v. Principal Secretary, Health and Family Welfare Department, GNCTD*,³ wherein it was authoritatively held that a woman's right to reproductive autonomy includes the right to choose whether and when to have children, and that reproductive autonomy necessarily entails the intrinsic right to decide whether to undergo an abortion, this decision being firmly rooted in the woman's right to bodily integrity and decisional autonomy under Article 21.

13. This Court, in *Minor R (Thr. Her Father R) v. State NCT of Delhi & Anr*,⁴ was concerned with a petition filed by a minor rape survivor at a gestational age of 26-28 weeks, seeking directions for termination of her pregnancy. This Court, after advertent to the report of the Medical Board of AIIMS, New Delhi opining that continuation of the pregnancy was likely to have an adverse psychological impact on the minor, held as under:

“10. 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.

11. 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

² (2009) 9 SCC 1.

³ 2022 SCC OnLine SC 1321.

⁴ 2026:DHC:5164 .



terminated.”

14. This Court, in the aforesaid decision, further took note of the observations of the Supreme Court in *S v. Union of India & Ors.*,⁵ wherein it was held as follows:-

“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. ... What is of relevance is the choice of the pregnant woman rather than the interest of an unborn child.

11.3 ... 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.”

15. This position finds further support in the decision of the Supreme Court in *Venkatalakshmi v. State of Karnataka & Ors.*,⁶ wherein, on facts materially similar to the present case, the Supreme Court directed termination of a pregnancy at 26 weeks gestation of a minor rape survivor, having regard to the grave mental injury inflicted upon her, while directing that the State bear all expenses of the procedure and that the concerned hospital preserve the terminated foetus for the purposes of DNA testing.

16. A coordinate Bench of this Court, in *Minor S (Thr Father B) v. State*

⁵ SLP(C) No. 14454/2026, decided on 24.04.2026.



& *Anr.*⁷, while permitting termination of pregnancy of a 15-year-old rape survivor at a gestational age of over 27 weeks, similarly directed that the procedure be carried out subject to all necessary medical precautions, that a complete record thereof be maintained, that foetal tissue be preserved for DNA identification, that the State bear all expenses, and that, in the event the child is born alive, appropriate medical and rehabilitative support be extended in coordination with the concerned Child Welfare Committee.

17. This Court, in *Minor R Thr. Mother H v. State (NCT of Delhi)*⁸, permitted termination of pregnancy of a minor rape survivor at a gestational age of 24 weeks and few days, and observed as follows:

“11. Though the statute does not provide for termination of pregnancies over the gestational age of 24 weeks except in case of detection of substantial foetal abnormalities, the provision in regard to which is Section 3(2B) of MTP Act, the extraordinary powers of the Constitutional Courts, however, have been recognized even by the Hon’ble Supreme Court of India and exercised several times by the High Courts to allow termination of pregnancies even in cases where pregnancy has exceeded the limit of 24 weeks.

14. ... It is not the privacy of the rape victim which is invaded by sexual assault, but her body is wounded and her soul is scared. It would not be appropriate to expect the minor victim who is a 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. Doing so, will amount to asking a child to give birth and raise another child.”

18. This Court further notices the decision in *Mrs. X v. GNCTD & Anr.*⁹, wherein, in the context of a pregnancy at an even more advanced gestational stage of 33 weeks, this Court held that the ultimate decision in such matters must recognize the choice of the mother, observing:-

⁶ 2017 SCC OnLine SC 2156.

⁷ 2025:DHC:2710.

⁸ 2023 SCC OnLine Del 383.



“44. ... the Court holds that the ultimate decision in such cases ought to recognize the choice of the mother, as also, the possibility of a dignified life for the unborn child. ... this Court holds that the medical termination of pregnancy ought to be permitted in the present case.”

19. Applying the aforesaid principles to the facts of the present case, this Court notes that the petitioner is a 13 year-old survivor of penetrative sexual assault allegedly committed upon her by a person in a position of trust, namely, her school teacher, and that an FIR under Sections 64(2)(f)/351 of the Bharatiya Nyaya Sanhita, 2023, read with Section 6 of the POCSO Act, already stands registered in relation to the said incident. The gestational age of the petitioner, assessed at 24 weeks 6 days as per the USG dated 20.08.2026 conducted at DDU Hospital, places her, at the very margin of the outer statutory limit contemplated even for the special categories of women under Section 3(2)(b) read with Rule 3B of the MTP Rules, and this Court is conscious that continuation of the pregnancy, given the petitioner's tender age of 13 years, would in all likelihood result in grave and irreversible mental and physical injury to her.

20. The anguish caused to the petitioner, being a survivor of rape, is required to be presumed to constitute grave injury to her mental health in terms of Explanation 2 to Section 3(2) of the MTP Act. This presumption stands further reinforced by the Medical Board's opinion, communicated through learned ASC on advance instructions, that there is no impediment to the petitioner undergoing the procedure for medical termination of pregnancy. The desire of the petitioner and her mother to terminate the pregnancy, considered alongside the medical opinion on record, leaves this Court satisfied that the relief sought ought to be granted, consistent with the

⁹ 2022:DHC:005344.



view consistently taken by this Court and the Supreme Court in the decisions noticed hereinabove.

21. It is also necessary to observe that every passing day results in further advancement of the pregnancy, thereby not only aggravating the physical and psychological trauma already being suffered by the petitioner but also correspondingly increasing the medical risk attendant upon the procedure. The matter, therefore, brooks no delay.

22. In view of the aforesaid discussion, the present petition stands allowed, and the prayer for medical termination of the pregnancy of the petitioner is granted, with the following directions:

- (i) Let the procedure for termination of pregnancy 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., Deen Dayal Upadhyay Hospital, Hari Nagar, 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.
- (iv) Needless to say, respondent no. 1, i.e., GNCTD 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, Deen Dayal Upadhyay 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 father, such child be given in adoption as per prescribed procedure.

23. Order *dasti* under the signature of Court Master.

PURUSHAINDR KUMAR KAURAV, J

AUGUST 24, 2026

NK/ tr