

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

993 WRIT PETITION NO. 3217 OF 2020

XYZ THROUGH HER FATHER
KAILASH SHRAVAN PATIL
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner :
Mr. Harshal Prakash Randhir
AGP for Respondents : Mrs. V. N. Patil-Jadhav

...

**CORAM: S. V. GANGAPURWALA &
SHRIKANT D. KULKARNI, JJ.**

DATE: 27th FEBRUARY, 2020

PER COURT:

1. The petitioner claims to be a minor and a rape victim. The petitioner seeks permission to terminate the pregnancy. The petitioner was referred to the expert committee at Government Medical College and Civil Hospital, Jalgaon. Respondent no. 2 was directed to escort the petitioner to the committee constituted by respondent no. 3.

2. Accordingly, the petitioner was examined by the expert committee at Government Medical College

and Civil Hospital, Jalgaon. The expert committee has submitted the report. The report reads thus-

"...

1) *On clinical & Sonographic assessment of the pregnancy of Miss. Tina Kailash Patil, Age 17 years 05 Month on 26-02-2020, there is no evidence of any obvious structural congenital anomaly in fetus, at present*

2) *Considering given age of patient at 17 years and 5 month as notified by honorable court the patient is clinically normal and psychologically stable. There is no substantial risk to fetus or mother if pregnancy is continued.*

3) *As per section 3 of MTP act 1971 If pregnancy is due to rape pregnancy can be terminated with due reasonable risk and consent procedure."*

3. Explanation No. I to Sec. 3 of the Medical Termination of Pregnancy Act, 1971 (for short "said Act") states that, where any pregnancy alleged by the pregnant woman to have been caused by rape, the anguish caused by such pregnancy shall be presumed to constitute a grave injury to the mental health of the pregnant woman. Section 3(2)(b)(i) of the said Act provides that the pregnancy may be terminated if the continuance of the pregnancy would involve a risk to the life of

the pregnant woman or of grave injury physical or mental health.

4. Reading Explanation I with Section 3(2)(b)(i) of the said Act, the petitioner can be permitted to terminate the pregnancy.

5. Considering the aforesaid, the petitioner is granted permission to terminate the pregnancy. The pregnancy may be terminated. The learned counsel for the petitioner submits that the petitioner would terminate the pregnancy at Government Medical College and Civil Hospital, Jalgaon.

6. Considering the fact that the pregnancy carried out by the victim is a result of offence of rape, complaint has already been lodged, the F.I.R. is registered, the hospital where the pregnancy of the petitioner would be terminated shall preserve tissue sample and blood sample of the foetus for carrying out necessary medical tests including DNA, finger printing/mapping. The Investigating officer who conducted the investigation in the matter shall ensure that the

samples of tissues and blood etc. shall be forwarded to the Regional Forensic Laboratory for DNA, finger printing/mapping and for carrying necessary tests and samples and report shall be preserved for the purpose of trial of the offence.

7. The police authority / investigating machinery may approach the hospital where the petitioner would terminate the pregnancy. The petitioner shall also inform the concerned police station about the day the petitioner is to terminate pregnancy.

8. In the light of above, writ petition is disposed of. No costs.

[SHRIKANT D. KULKARNI, J.]

[S. V. GANGAPURWALA, J.]

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