

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

WRIT PETITION NO.4219 OF 2020

XYZ (Minor Rape victim)
Through her father (guardian)
Paraji s/o Mita Tikhole .. Petitioner

Versus

The Union of India
and others . .. Respondents

Mr Rupesh Jaiswal, Advocate for petitioner
Mr P. S. Patil, A.G.P. for respondents State

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

DATE : 20th March 2020

ORAL ORDER :

1. The petitioner seeks permission to terminate the pregnancy.
2. The petitioner is a minor and claims to be rape victim.
3. Under order dated 18th March, 2020, we had referred the petitioner to the Expert Committee at Government Medical College and Hospital, Aurangabad for examination. Pursuant thereto, the expert committee examined the petitioner and submitted the report.

The report reads thus:

“ The Committee has thoroughly examined XYZ (Minor Rape Victim) and her obstetric Sonography report. On obstetric ultra sonography dated 19.03.2020 at GMCH, Aurangabad, following findings are noted:

- a. Length of Pregnancy: Gestational Age of 22 weeks 05 days.
- b. Single live intrauterine fetus with no significant anomaly in present scan.

As pregnancy is caused by sexual assault, continuation of pregnancy carries substantial risk to patients physical and mental health. The committee

recommends that this pregnancy can be terminated with due risk to mother (XYZ) and the risk is explained to mother (XYZ) and her parents. This pregnancy can be terminated at Government recognized centre of choice of patient and parents."

4. Report suggests that continuation of pregnancy carries substantial risk to physical and mental health of patient. The committee recommended that pregnancy can be terminated with due risk to the mother and risk is explained to her and her parents.

5. In addition to the above, the petitioner is a rape victim. Explanation No. I to Sec. 3(2) (ii) 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.

6. It appears that the FIR bearing Crime No.152/2020 dated 07.03.2020 is registered with Parner Police Station, District Ahmednagar.

7. Considering Explanation – I to Section 3 (2) (ii) of the said Act and the opinion of the committee and the fact that the petitioner claims to be a rape victim, we allow the petitioner to terminate the pregnancy.

8. The petitioner may get the pregnancy terminated at Government Medical College and Hospital, Aurangabad.

9. Considering the fact that the pregnancy carried by the victim is a result of offence of rape, complaint has already been lodged. The hospital where pregnancy of petitioner would be terminated shall preserve tissue sample and blood sample of the fetus 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, Aurangabad for DNA, finger printing/mapping and for carrying necessary tests and the samples and report shall be preserved for the purpose of trial of the offence.

10. 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 the pregnancy.

11. In light of above, the Writ Petition is disposed of. No costs.

12. Authenticated copy of this order be given to the parties.

(SHRIKANT D. KULKARNI, J.

(S.V. GANGAPURWALA, J.)

JPC