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

+ **W.P.(CRL) 344/2020**

MINOR G

..... Petitioner

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

versus

STATE & ANR

..... Respondents

Through: Ms Kamna Vohra, ASC for State.
W/SI Premlata, PS Swaroop Nagar.
Dr. M.S. Kamna Datta, Associate
Professor, Dr. R.M.L. Hospital.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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06.02.2020

1. The petitioner is a minor and has filed the present petition through her mother, *inter alia*, praying that respondent nos. 1 and 2 be directed to terminate the petitioner's pregnancy.
2. The petitioner is aged about 16 years. She had alleged that she had been raped and the same had resulted in an unwanted pregnancy. The petitioner had concealed the said incident from her family members and had reported the same on 16.01.2020. Thereafter, an FIR (FIR No. 0068/2020 under Sections 376/506 of the IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012) was registered with Police Station Swaroop Nagar.
3. Since, more than twenty weeks of the gestation period was over, the petitioner through her mother had applied to the Child Welfare Committee for termination of the pregnancy, which was considered by the Committee

on 29.01.2020. The Committee considered the medical report from Dr. Baba Saheb Ambedkar Hospital that indicated that the petitioner was six months pregnant. And, in view of the above, the petitioner's request for Medical Termination of Pregnancy (MTP) was rejected. This has led the petitioner to file the present petition.

4. The present petition was listed on 04.02.2020 and this Court had directed the Medical Superintendent of Dr. Ram Manohar Lohia Hospital to forthwith constitute a Medical Board to examine the petitioner and to submit a report.

5. Dr Kamna Datta, Associate Professor from Dr. Ram Manohar Lohia Hospital is present in Court today and states that pursuant to the orders of this Court, a Medical Board was constituted. The Board found that the petitioner is twenty-three weeks and two days pregnant. She also states that there is significant risk to the petitioner in continuing with the pregnancy, as it is a teenage pregnancy. The Medical Board is also of the opinion that any surgical intervention, at this stage, would also carry the usual risks involved in a surgical intervention.

6. This Court has interacted with the minor. It is noticed that she is in considerable distress and is insisting that her pregnancy be terminated. This Court has also interacted with the parents (mother and father) of the petitioner. After interaction, it is evident that they are also adamant that the petitioner's pregnancy be terminated.

7. After a protracted interaction with the petitioner and her family, it is clear that the petitioner is under immense distress and her continuing with

the pregnancy would only enhance the same.

8. The risks that abortion, at this stage, carries was explained to the petitioner and her parents. However, they remain undeterred.

9. In view of the report submitted by Dr. Ram Manohar Lohia Hospital and in view of her explanation that further continuing with the pregnancy involves risk to the petitioner, this Court is of the view that the present petition ought to be allowed.

10. The learned counsel appearing for the petitioner has also referred to the decision of the Supreme Court in ***Ms Chanchala Kumari v. Union of India: W.P.(C) 871/2017*** and ***Venkatalakshmi v. The State of Karnataka: Civil Appeal No. 15378/2017***, whereby in somewhat similar circumstances, the Supreme Court had permitted termination of pregnancy even beyond the period of twenty-four weeks.

11. Since it is evident that there is a considerable risk, both physical and psychological to the minor in the event of continuing with the pregnancy, this Court allows the present petition.

12. The procedure for termination of the pregnancy shall be carried out by Dr. Ram Manohar Lohia Hospital as expeditiously as possible and, preferably, within a period of twenty-four hours.

13. The tissue of the foetus shall be preserved for further DNA Test, if required.

14. The parents of the petitioner are directed to ensure that the petitioner

is brought for medical examination within an interval of three weeks, after her discharge. They shall follow the advice of the doctors and produce the petitioner for regular check-ups, if so advised.

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

FEBRUARY 06, 2020
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VIBHU BAKHRU, J