

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

975 WRIT PETITION NO.7279 OF 2021

**A B C THROUGH HER NATURAL GUARDIAN BROTHER
SANTARAM RAGHUNATH AAJALE**

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner: Mr. Gade Akash D.

AGP for Respondents: Mr. S. G. Karlekar

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**CORAM: S. V. GANGAPURWALA &
R. N. LADDHA, JJ.**

DATE: 07th JULY, 2021

PER COURT:

1. The petitioner claims to be a rape victim. The petition is moved for termination of pregnancy.

2. Under order dated 05.07.2021 we had directed the petitioner to get examined by the expert committee at Swami Ramanand Teerth Government Medical College and Rural Hospital, Ambajogai. Pursuant to the order, the expert committee examined the petitioner and submitted the report. The report submitted by the expert committee reads thus-

13. Investigations done-

S.no.	Investigations done	Key findings
1.	Obstetrics USG report date 22.06.2021 by Dr. Swati Kagne, Assistant Professor OBGY department, SRTRGMC, Ambajogai	Single live intrauterine pregnancy of Average gestational age 22 weeks 5 days

14. Additional findings and observations-

Record additional findings and observations here if any (also include any risk to the health of girl/woman in case of continuation of pregnancy as well as termination)

No Complaints

Examination findings: General Condition fair, Afebrile, PR-84/min, BP 110/80mmhg, no pallor,,No oedema/Icterus

P/A – Uterus 24 weeks, Relaxed

15. Physical fitness for termination-

a. Yes

16. Recommendation by medical Board for termination (choose one and provide any additional recommendations of the panel in the box below if any)

a. Recommended-(if yes please mention the methods) - Medical, if failed surgical

Key recommendations of the panel if any with justification-

1. Continuation of pregnancy affects the mental health of the mother and will cause grave injury to mental health of the mother

2. She may have risk of various complications if pregnancy is terminated at this stage.

a) Haemorrhage

b) Failure of Abortion

c) Need of surgical method (Hysterotomy)

d) Incomplete abortion

e) Sepsis (Infection)

f) Maternal death

g) Need of blood transfusion

h) Need of obstetric hysterectomy

3. Committee has explained the risk involved in said procedure to the patient and her relatives.

Pregnancy is caused by alleged rape and continuation of pregnancy will cause grave injury to the mental health of mother. Hence, the committee recommends termination of pregnancy at government recognized centre of choice of patient with above mentioned risks.

3. The expert committee suggested termination of pregnancy as the petitioner is a rape victim and it may affect her mental health.

4. 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.

5. It appears that, the FIR bearing Crime No. 0196/2021 dated 20.06.2021 is registered with the Police Station Ambajogai (Rural), District – Beed.

6. Considering Explanation-I to Section 3(2)(ii) of the said Act and the opinion of the expert

committee, we allow the petitioner to terminate the pregnancy.

7. The petitioner may get the pregnancy terminated at any Government recognized centre.

8. Considering the fact that the pregnancy carried by the victim is alleged to be a result of of the offence of rape, the complaint has already been lodged. The hospital where the pregnancy of the petitioner would be terminated shall preserve the 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, 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.

9. 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.

10. Writ Petition is disposed of with the aforesaid observations and directions. No costs.

[R. N. LADDHA, J.]

[S. V. GANGAPURWALA, J.]

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