

115

**IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

**CWP No.24685 of 2021**

**Date of Decision: 07.12.2021**

**SANJIV KUMAR**

**.....Petitioner**

**Vs**

**STATE OF PUNJAB AND OTHERS.....Respondents**

**CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH**

Present: Mr. Sukhwinder Singh Kainth, Advocate  
for the petitioner.

Mr. T.P.S. Chawla, D.A.G., Punjab  
for respondents No.1 to 3.

Mr. Amit Jhanji, Sr. Advocate with  
Mr. Abhishek K. Premi, Advocate  
for respondent No.4/PGIMER, Chandigarh.

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**RAJ MOHAN SINGH, J.(Oral)**

Petitioner has preferred this petition for the issuance of an appropriate writ, order or direction especially in the nature of mandamus directing respondent No.4-PGIMER, Chandigarh to terminate the pregnancy of the victim i.e. minor daughter of the petitioner, who is having pregnancy of more than 22 weeks and 5 days.

On 03.12.2021, following order was passed by this Court:-

*“Father of minor rape victim has preferred this writ petition under Article 226/227 of the Constitution of India for the issuance of an appropriate writ or direction*

*especially in the nature of mandamus directing respondent No.4 to terminate the pregnancy of the victim, which is more than 22 weeks and 5 days. The victim has become pregnant owing to the misdeeds of her step father and one Pujari, who is brother of his step father. FIR No.228 dated 01.11.2021 has also been registered in P.S. Tibba, District Police Commissionerate, Ludhiana against the accused. Ram Chander (step father of the victim) has also been arrested, whereas his brother is still at large.*

*Learned counsel further submits that the minor/victim has become pregnant and it will be humiliating and dangerous for her life to give birth to a child keeping in view her age of 14 years. There is a substantial risk in case of delivery of child and the minor/victim may suffer physical or mental abnormalities. For terminating a pregnancy of 12 weeks of the gestation period, satisfaction of one medical practitioner is required. If pregnancy is more than 12 weeks and upto 20 weeks, then satisfaction of two medical practitioners is required. In case of pregnancy of more than 20 weeks, opinion of medical board is required. When the women is below the age of 18 years or is mentally ill, the pregnancy can be terminated on the basis of consent given by the guardian of the pregnant girl.*

*Learned counsel further submits that in the present case, the victim is minor and her father has come forward for termination of pregnancy. The continuation of pregnancy may endanger physical and mental health of the rape victim and the termination is within the acceptable limits with institutional backup.*

*Notice of motion for 07.12.2021.*

*Mr. Abhishek Kumar Premi, Advocate appears and accepts notice on behalf of respondent No.4/PGIMER, Chandigarh.*

*Learned counsel very fairly submits that the Medical Board would be constituted by tomorrow and in case, the petitioner along with the victim appears before the Medical Superintendent, PGIMER, Chandigarh at 10.00 A.M., tomorrow, then the victim will be medically examined by the Medical Board.*

*In view of above, petitioner along with the victim is permitted to appear before the Medical Superintendent, PGIMER, Chandigarh on 04.12.2021 at 10.00 A.M. The Medical Superintendent will ensure that Medical Board after medical examination of the victim gives its assessment report regarding termination of her pregnancy. The said report be sent to this Court in a sealed cover on the next date of hearing i.e. 07.12.2021.*

*To be shown in urgent list.”*

In compliance of the aforesaid order, the victim has been medically examined by the Permanent Medical Board of PGIMER, Chandigarh.

Today, a report of Medical Board has been received in a sealed cover. The report has been opened and the same is marked as Mark A-1. The medical report be tagged at an appropriate place with the petition.

According to the aforesaid report, the Medical Board has given the following characteristics:-

*“1. As per the ultrasound done on 04.12.2021, the period of gestation (POG) is 22 weeks + 4 days with single live intrauterine healthy fetus with estimated fetal weight of 486 gms. No gross congenital malformation seen.*

2. *The detailed psychiatric evaluation done is suggestive of psychological distress due to her current situation.*

3. *The patient has been examined and found to be medically fit but mildly anaemic (Hb 9.2 gm/dl). She is at the moment not suffering from any medical ailment which poses imminent danger to her life.*

4. *Keeping in view the above, the medical termination of pregnancy for the minor patient may be allowed. Therefore, the permanent medical board recommends medical termination of pregnancy at this stage. We also wish to bring to the knowledge of the Hon'ble High Court that the medical termination of pregnancy at an advanced gestation of 22 weeks + 4 days carries more than the usual risks which have been explained to the patient.*

*Hence, the **board advises MTP** in this case with the advise to be followed as listed above. The board also advises to send the fetus for DNA analysis for onward transmission to Forensic lab through police."*

The aforesaid report would show that the period of gestation is 22 weeks + 4 days with single live intrauterine healthy fetus with estimated weight of 486 gms. No gross congenital malformation seen. Though the victim is having psychological distress due to her current situation, she has been found to be medically fit and not suffering from any medical ailment which poses imminent danger to her life. The Medical Board has advised MTP.

The background in which the victim has conceived

pregnancy has been elaborately mentioned in the order dated 03.12.2021 passed by this Court. In view of the status of the victim, her pregnancy needs to be terminated for which the petitioner is ready to make statement on behalf of the victim that the victim is ready and willing to appear before respondent No.4 i.e. Medical Superintendent, PGIMER, Chandigarh on 09.12.2021 at 11.00 A.M., and is ready to fulfill all the necessary formalities for undergoing the procedure of MTP.

In view of above, petitioner is permitted to produce the victim before respondent No.4 i.e. Medical Superintendent, PGIMER, Chandigarh on 09.12.2021 at 11.00 A.M. On completion of all the necessary formalities, respondent No.4/PGIMER, Chandigarh shall undertake the necessary medical procedure.

Petitioner would be at liberty to espouse his financial status before respondent No.4/PGIMER, Chandigarh. In case, the plea of the petitioner is found to be in accordance with the prevalent schemes, the same shall be considered in accordance with the rules.

With this observation, this petition is disposed of.

**(RAJ MOHAN SINGH)**  
**JUDGE**

December 07, 2021

*Atik*

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No