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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 12425 OF 2022

Ms. X

..... Petitioner

Vs.

State of Maharashtra & Ors.

..... Respondents

Ms. Rebecca Gonsalvez for the Petitioner
Mrs. M. P. Thakur, AGP for the State

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

DATED : OCTOBER 17, 2022

P.C.

1 The Petitioner claims to be a rape victim. An FIR bearing No.416 of 2022 is filed with the Satara Taluka Police Station.

2 The Petitioner seeks permission to terminate the pregnancy.

3 The Petitioner was referred to Respondent No.2 - Medical Board, District Hospital at Satara. The Board examined the Petitioner and submitted the report. The report suggests that the Petitioner is physically and mentally fit for termination of pregnancy.

4 The Petitioner is a rape victim. Explanation 2 to Section 3 of the Medical Termination of Pregnancy Act, 1971 provides that

where any pregnancy is alleged by the pregnant woman to have been caused by rape, the anguish caused by the pregnancy shall be presumed to constitute a grave injury to the mental health of the pregnant woman.

5 In light of the above and the report of the Expert Committee, the Petitioner is permitted to terminate the pregnancy at the Government recognized Center.

6 The Petitioner / her parents may intimate the Investigating Officer of the date and time of the termination of pregnancy.

7 The Investigating Officer shall remain present at the time of termination of pregnancy and shall take effective steps such as;

(i) The Doctors of Medical Board of at Satara shall preserve the blood and tissue samples of the fetus for the purpose of carrying out necessary medical tests including DNA and other tests.

(ii) The Investigating Officers conducting the investigation of the criminal proceedings shall ensure that the samples are forwarded to the Forensic Science Laboratories and the same are preserved for the purpose of trial of the offence.

(iii) In the event of the child being born alive, the Medical Practitioner conducting the procedure shall ensure that all necessary facilities are made available to such child for saving his/ her life.

(iv) In the event of the child being born alive and the Petitioner and his family members are not willing to take responsibility of such child, the State and its agencies will have to assume full responsibility for such child.

(v) The State is directed to immediately place the FIR, medical report and other papers, including statement of the Petitioner under Section 164 of the Criminal Procedure Code, 1973 (CRPC), before the District Legal Services Authority (DLSA) for payment of amounts to her under the Government Resolution dated 1st August 2017 i.e. "The Manodhairya Scheme".

(vi) Upon receipt of such papers, DLSA is directed to immediately process the same for payment of compensation to the minor daughter of the Petitioner at various stages contemplated under the aforesaid Scheme. It shall be ensured by the DLSA that such payments are made at the earliest and without any delay in the matter.

8 The Writ Petition is disposed of.

(R.N. LADDHA,J.)

(S.V. GANGAPURWALA, J.)