

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1662 OF 2023

XYZ

Under guardianship of mother

Vandana Dnyandev Rathod

Age:- 35 years, Occu: Household,

R/o: Satwai Tanda, Jalna,

Dist. Jalna.

...Petitioner

Versus

1. The State of Maharashtra
Through its Secretary, Public
Health Department, Mantralaya,
Mumbai-400032.

2. The Dean,
Government Medical College
and Hospital, Aurangabad.

3. The Investigation Officer,
Taluka Jalna Police Station,
Jalna, Dist – Jalna.

...Respondents

Ms Sabahat T. Kazi, Advocate for the Petitioner

Mr P.K. Lakhotiya, AGP for the Respondent Nos. 1 to 3/State

**CORAM : MANGESH S. PATIL AND
S.G. CHAPALGAONKAR, JJ.**

DATE : 14-02-2023

PER COURT :

Not on Board. Taken on Board at the request of learned
advocate for the petitioner.

2. This writ petition seeks permission to undergo abortion. The
petition is moved by the mother of the victim of an offence of rape and
offences under the Protection of Children from Sexual Offences Act,

2012, regarding which FIR No. 0739/2022 has been registered with Jalna Taluka Police Station on 24.11.2022.

3. We have heard the learned advocate for the petitioner and the learned A.G.P. for the respondent/State. We have also perused the report submitted in Form-"D" by the concerned Board. Irrespective of any anomaly being noticed or otherwise, in view of the fact that the pregnancy has occasioned on account of rape, it would certainly constitute a grave injury to the mental and physical health of the pregnant woman where the length of the pregnancy does not exceed twelve weeks, as contemplated under Explanation No. I to Section 3(2)(ii) of the Medical Termination of Pregnancy Act, 1971 (for short "Act of 1971").

4. Since the victim's mother is moving the petition, there is compliance of Section 3(4)(a) of the Act of 1971 as well.

5. The learned advocate for the petitioner submits that the victim as well as guardian/mother are ready to submit consent in writing before the Civil Surgeon, Civil Hospital at Jalna.

6. We allow the writ petition as under :-

(i) The petitioner and the victim shall appear before the Civil Surgeon, Civil Hospital at Jalna on 15-02-2023 and shall submit written consent before the Civil Surgeon, Civil Hospital at Jalna. Thereafter, he shall cause termination of pregnancy under his supervision.

(ii) The Civil Surgeon, Civil Hospital at Jalna shall also ensure that the blood sample/DNA is preserved in consultation with the Investigating Officer concerned.

[S.G. CHAPALGAONKAR, J.]

[MANGESH S. PATIL, J.]

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