IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 13364 OF 2023

1. X.Y.Z.
Petitioner No.1 is under Guardian of
her Parents that is Petitioner no.2

2. X.Y.Z. ...**PETITIONERS**

VERSUS

1. The State of Maharashtra,
Through Secretary,
Home Department, Mantralaya,
Mumbai – 32

2. The Dean,
Dr. Shankarrao Chavan Govt. Medical
College and Hospital, Vishnupuri,
Nanded ... **RESPONDENTS**

....

Mrs. S. L. Awchar, Advocate for Petitioners
Mr. V. M. Kagne, AGP for Respondents – State

....

CORAM : RAVINDRA V. GHUGE AND
Y. G. KHOBRAGADE, JJ.

DATE : 26.10.2023

JUDGMENT (Per – Y. G. Khobragade, J.) :-

1. Rule. Rule made returnable forthwith. Heard finally with the consent of the parties.

2. By the present petition, the guardian of the minor / Petitioner No.1, victim of sexual offence put forth prayer clauses [B] and [C], as under:-

> "*[B] By way of writ of mandamus, order or direction in the nature of mandamus, directing the respondent No.2 to terminate the pregnancy of petitioner No.1.*
>
> *[C] That, the permission may kindly be granted to petitioner No.1 to terminate her pregnancy with further direction to respondent No.2 to terminate the Pregnancy of petitioner No.1.*"

3. On 23.10.2023, the present petition was urgently mentioned at 3.00 p. m. and taking into consideration the urgency of medically termination of pregnancy of 24 weeks, the matter was taken on production board. After hearing the learned Counsel for the Petitioner, we have observed in para Nos. 2 and 3 as under :-

> "*2. Since the victim resides in the Nanded area, we call upon the medical board of Respondent No.2/Dr. Shankarrao Chavan Government Medical College and Hospital, Vishnupuri, Nanded, to perform a medical examination of the Petitioner and to opine specifically as under:-*
>
> > *(a) Whether the foetus is well developed or there are any anomaly?*
> >
> > *(b) Whether the foetus in the womb has a beating heart?*
> >
> > *(c) Whether the medical termination of pregnancy is likely to lead to the birth of a living child, without following the procedure of injecting the womb, so as to forceably stop the heart of the foetus.*

> *3. The mother of the victim would accompany her to Respondent No.2/Hospital, at 9.00 a. m. on 25/10/2023. The Medical Board of Respondent No.2 shall examine the victim. Let such report be tendered at 2.30 p. m. on the same date through the office of the learned Government Pleader, by E-mail.*"

4. The learned Counsel appearing for the Petitioners submits on instructions that the Petitioner No.1 is minor victim was subjected to a physical crime, due to which she conceived and therefore she would suffer from trauma, agony and physical hardship. Therefore, even if a live beating heart child is born, the Petitioner No.1 minor should be subjected to the said medical termination of pregnancy procedure.

5. We have perused the First Information Report (FIR) bearing No. 0122 of 2023 dated 18.10.2023, registered with Kondalwadi Police Station, District Nanded, at instance of the Petitioner No.1 victim indicating that prior to 5 – 6 months of lodging of the FIR, when she was alone at her house, at that time, the accused entered in her house and latched the door from inside. Thereafter, the accused told her that she is looking beautiful and allow him to sleep with her and removed the clothes from her person. Thereafter, she was laid down and performed forcefully sexual intercourse with her. The Accused issued life threat, if she discloses said incident to

anyone. Due to which, she did not disclose said incident to anyone till 15.10.2023. On 16.10.2023, she was brought at the hospital by her mother after she complain about stomach pain. Thereafter, the Medical Officer physically examined the victim and opined that the victim is carrying pregnancy of 4-5 months (16-20 Weeks). Then the victim lodge a Report, on which basis of which Crime No. 0122/2023 being registered with Kondalwadi Police Station, Nanded against the accused for the offence under Section 376(3) and 452 of the Indian Penal Code and Sections 4 and 6 of the Protection of Children from Sexual Offences (POCSO) Act, 2012.

6. In pursuance of order dated 23.10.2023, the Medical Board of Dr. Shankarrao Chavan Government Medical College, Nanded, medically examined the Petitioner No.1 and submitted it's report dated 25.10.2023, which is taken on record and marked "X" for identification. The relevant portion of the medical report, reads as under:-

> "*The examinee is conscious, oriented, afebrile with pulse rate 88 beats/minute, blood pressure 120/80mmhg.*
> *CVS – S1S2+, No murmur*
> *RS – AEEBS, B/L CHEST CLEAR*
> *PA-Ut 24-26 weeks, externally ballotable, uterus relaxed.*

Her investigations are as follows
Random blood sugar 103 mg/dl
Hemoglobin 9.4 gm%
Liver function test: SGOT : 28, SGPT 16, T BILI 0.6,
Kidney function test: Sr UREA 16, Sr CREAT 0.7
ECG:WNL

USG (25/10/23): Single live intrauterine pregnancy of 24.3 weeks GA, variable presentation with liquor adequate with placenta posterior with Effective fetal weight with 635 grams with no any obvious anamoaly detected on present scan.

Opinion of expert committee regarding MTP:
The examinee ***victim*** *is under guardianship of her father and another is physically and mentally fit to undergo Medical Termination of Pregnancy. She has been examined thoroughly by expert committee and opinion that the patient is fit for termination of pregnancy on the humanitarian grounds. Termination might be by vaginal route or by cesarean section. As she has completed 25.1 weeks, there are chances of live birth of baby, but chances of survival is minimal.*"

7. Mrs. Awchar, the learned Advocate appearing for the petitioners vehemently submits that, the petitioner No. 1/victim is a child within the meaning of section 2(d) of the Protection of Children From Sexual Offences Act, 2012 and penetrative sexual assault resulted into pregnancy which is now above 25 weeks. Therefore, considering the provisions of Section 3 of the Medical Termination of Pregnancy Act, 1971, it is of significance in the present case, where the pregnancy is caused due to rape, the anguish caused by such pregnancy shall be presumed to constitute a grave injury to the

mental health of the pregnant petitioner No.1. Denying a woman the right to say no to medical termination of pregnancy and fasten her with responsibility of motherhood would amount to denying her human right to live with dignity because the petitioner has every right in relation to her body which includes saying “Yes” or “No” for being a mother. So also, the victim would suffer social stigma and trauma. Under such circumstances, pregnancy can be terminated to avoid burden of giving birth and raising the child especially in a situation where the petitioner herself passing through the age of adolescent.

8. The learned counsel for the petitioner further canvassed that the petitioner No.1 is studying in 11th standard, however, due to sexual assault the victim developed with the pregnancy. The petitioner wanted to complete her education, therefore, prayed for termination of pregnancy to avoid social, financial as well as jeopardy to her future educational life.

9. In support of his submissions, the learned counsel for the petitioner placed reliance on the following case law:

(i) XYZ Vs State of Maharashtra & others, 2021 SCC OnLine Bom.3353=(2021) 6 AIR Bom R 655;

(ii) ABC Vs. State of Maharashtra & others, 2021 SCC OnLine Bom 419: (2021) 2 AIR Bom R (Cri) 415);

(iii) X Vs. State of Maharashtra & anr., 2022 SCC OnLine Bom 253: (2022) 3 Mah LJ 67: (2022) 2 AIR Bom R 572;

(iv) Minor R. Through Mother H Vs. State (NCT of Delhi) and another, 2023 SCC OnLine Del 383;

(v) XYZ Vs. Union of India and others – 2019(3) Bom.CR 400;

(vi) XYZ Vs. The State of Maharashtra and another – Order dated 20.06.2023 passed by this Court in Writ Petition No.6340 of 2023.

10. On perusal of the contents of the FIR, it appears that prior to 4-5 months of lodging of the FIR, the victim/Petitioner No.1 was appears to be alone at her house in day time and the accused all of sudden entered in her house. He latched the door from inside and he committed rape on her after saying that she is beautiful. The victim did not disclose such serious act of sexual assault to her mother on the day of incident or within short period soon after the incident. However, after her mother noticed some changes in her body, she was brought to the hospital for medical check up, wherein the Medical Officer confirmed about carrying of the pregnancy by Petitioner No.1.

11. In case **ABC Vs. State of Maharashtra & others, 2021 SCC OnLine Bom 419: (2021) 2 AIR Bom R (Cri) 415),** the co-ordinate bench of this Court granted permission to terminate more than 20 weeks' pregnancy of a minor victim of sexual assault, aged about 17

years on ground that on examination, the Medical Board opined that the minor was pregnant, due to alleged sexual assault and rape,and was found suffering a slight intellectual disability.

12. In the case of **X Vs. State of Maharashtra & Anr., (2022) 2 AIR Bom R 572,** permission to terminate pregnancy of 25/26 weeks was granted by the coordinate bench of this Court to the rape victim and held that the pregnancy caused by rape, the anguish caused by such pregnancy may be presumed to constitute grave injury to mental health of the victim.

13. In case of **Minor R. Through Mother H Vs. State (NCT of Delhi) and another, 2023 SCC OnLine Del 383,** wherein the Delhi High Court permitted to terminate 24 weeks and 5 days pregnancy of a minor child aged about 14 years which was resulted due to rape, by considering that the right to life invariably includes right to live with dignity guaranteed under Article 21 of the Constitution of India as well as the Child Welfare Committee Report about traumatic condition of the minor.

14. Section 3 of the Medical Termination of Pregnancy Act, 1971 provides for termination of pregnancy by a registered medical

practitioner under certain conditions. Sec. 3 of the Act, reads as under:

> *"3. When pregnancies may be terminated by registered medical practitioners.—(1) Notwithstanding anything contained in the Indian Penal Code (45 of 1860), a registered medical practitioner shall not be guilty of any offence under that Code or under any other law for the time being in force, if any pregnancy is terminated by him in accordance with the provisions of this Act.*
>
> *(2) Subject to the provisions of sub-section (4), a pregnancy may be terminated by a registered medical practitioner,—*
>
> *(a) where the length of the pregnancy does not exceed twelve weeks, if such medical practitioner is, or*
>
> *(b) where the length of the pregnancy exceeds twelve weeks but does not exceed twenty weeks, if not less than two registered medical practitioners are, of opinion, formed in good faith, that—*
>
> *(i) the continuance of the pregnancy would involve a risk to the life of the pregnant woman or of grave injury to her physical or mental health; or*
>
> *(ii) there is a substantial risk that if the child were born, it would suffer from such physical or mental abnormalities as to be seriously handicapped.*
>
> *Explanation I.—Where any pregnancy is 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.*
>
> *Explanation II.—Where any pregnancy occurs as a result of failure of any device or method used by any married woman or her husband for the purpose of limiting the*

number of children, the anguish caused by such unwanted pregnancy may be presumed to constitute a grave injury to the mental health of the pregnant woman.

(3) In determining whether the continuance of a pregnancy would involve such risk of injury to the health as is mentioned in sub-section (2), account may be taken of the pregnant woman's actual or reasonably foreseeable environment.

(4) (a) No pregnancy of a woman, who has not attained the age of eighteen years, or, who, having attained the age of eighteen years, is a [mentally ill person], shall be terminated except with the consent in writing of her guardian.

(b) Save as otherwise provided in clause (a), no pregnancy shall be terminated except with the consent of the pregnant woman."

Section 4 deals with the place where the pregnancy may be terminated, section 5 enumerates the situations where sections where sections 3 and 4 would not apply. Section 5 is reproduced hereunder:-

"5. Sections 3 and 4 when not to apply.—1) The provisions of section 4, and so much of the provisions of sub-section (2) of section 3 as relate to the length of the pregnancy and the opinion of not less than two registered medical practitioners, shall not apply to the termination of a pregnancy by a registered medical practitioner in a case where he is of opinion, formed in good faith, that the termination of such pregnancy is immediately necessary to save the life of the pregnant woman.

(2) Notwithstanding anything contained in the Indian Penal Code (45 of 1860), the termination of pregnancy by a person who is not a registered medical practitioner shall be an offence punishable with rigorous imprisonment for a term which shall not be less than two years but which may extend to seven years under that Code, and that Code shall, to this extent, stand modified.

(3) Whoever terminates any pregnancy in a place other than that mentioned in section 4, shall be punishable with rigorous imprisonment for a term which shall not be less than two years but which may extend to seven years.

(4) Any person being owner of a place which is not approved under clause (b) of section 4 shall be punishable with rigorous imprisonment for a term which shall not be less than two years but which may extend to seven years.

Explanation 1.—For the purposes of this section, the expression "owner" in relation to a place means any person who is the administrative head or otherwise responsible for the working or maintenance of a hospital or place, by whatever name called, where the pregnancy may be terminated under this Act.

Explanation 2.—For the purposes of this section, so much of the provisions of clause (d) of section 2 as relate to the possession, by registered medical practitioner, of experience or training in gynecology and obstetrics shall not apply."

15. At this juncture, we may mention that Parliament has enacted the Medical Termination of Pregnancy (Amendment)Act, 2021 whereby the upper limit for statutory permitting medical termination of pregnancy has been extended from 20 weeks to 24

weeks. The said amendment has been notified and has come into effect from 29th September, 2021.

16. In our judgment dated 20th June, 2023, in ***Writ Petition No. 6340 of 2023 XYZ – Vs- The State of Maharashtra & anr.,*** we declined to grant termination of pregnancy of 28 weeks in similar facts and circumstances of the present case considering paras 124 to 134 of the Judgment in **XYZ vs Union India and other, 2019 (3) Bom. C. R. 400,** which reads as under:

> *"124] In all such cases, where permission is granted to medically terminate pregnancies the provisions in the MTP Rules, 2003 and the MTP Regulations, 2003, will have to be complied with by the registered medical practitioners, hospitals/clinics and the approved places in terms of section4(b) of the MTP Act. Therefore, the directions which we have issued, are in addition to and certainly not in derogation of any of the requirements prescribed under the MTP Act, the rules and regulations made there under.*
>
> *125] In some cases, including, in one of the cases in this batch of Petitions, the medical board suggested that the pregnant mother and/or her family members give an undertaking that if, despite attempts at medical termination of pregnancy, the child is born alive, then the pregnant mother and/or her family members take full responsibility for such child.*
>
> *126] At the outset, we make it extremely clear that if despite attempts at medical termination of pregnancy, the child is born alive, then, first and foremost the registered medical practitioner and the hospital/ clinic concerned will have to assume the full responsibility to ensure that such child is offered the best medical treatment available in the*

circumstances, in order that it develops into a healthy child. Though there is debate as to whether the fetus (child in the womb) is a person, entitled to rights, there is no debate on the issue that a child, born alive, is a person, in whom, the right to life and personal liberty inheres. Therefore, taking into consideration the provisions of Part III and Part IV of the Constitution, we make it clear, that under no circumstances, such a child must be neglected or left to perish, particularly where the pregnant or her family members may not be in a position to or may not be willing to assume responsibility in such matters.

127] In the aforesaid regard, we refer to the decision of the Supreme Court in Parmanand Katara vs. Union of India (1989) 4 SCC 286 where it was held that there can be no second opinion that preservation of human life is of paramount importance. That is so on account of the fact that once life is lost, the status quo ante cannot be restored as resurrection is beyond the capacity of man. Article 21 of the Constitution casts the obligation on the State to preserve life. The provision as explained by this Court in scores of decisions has emphasised and reiterated with gradually increasing emphasis, that position.

128] The Supreme Court has further observed that a Doctor at the government hospital positioned to meet this State obligation is, therefore, duty bound to extend medical assistance for preserving life. Every doctor whether at a government hospital or otherwise has the professional obligation to extend his services with due expertise for protecting life. No law or State action can intervene to avoid/delay the discharge of the paramount obligation cast upon members of the medical profession. The obligation being total, absolute and paramount, laws of procedure whether in statutes or otherwise which would interfere with the discharge of this obligation cannot be sustained and must, therefore, give way. So far as this duty of medical profession is concerned, it is a duty coupled with human instinct and therefore, it needs neither any decision nor any code for compliance. In any case, Code of Medical Ethics framed by the Medical Council of India Item 13 specifically provides for it.

129] In M. Nagraj (supra), the Constitution Bench in the context of certain fundamental rights, including the right to life and human dignity, has held that the values impose a positive duty on the State to ensure their attainment as far as practicable. The rights, liberties and freedoms of the individual are not only to be protected against the State, they should be facilitated by it. It is the duty of the State to not only to protect the human dignity but to facilitate it by taking positive steps in that direction.

130] Therefore, if the child, despite attempts at medical termination of pregnancy, is born alive, then the parents as well as the Doctors owe a duty of care to such child. The best interest of the child must be the central consideration in determining how to treat the child. The extreme vulnerability of such child is itself reason enough to ensure that everything which is reasonably possible and feasible, in the circumstances, will have to be offered to such child, so that it develops into a healthy child.

131] In such matters, the instinct of the parents, will no doubt take over when it comes to the love and care to be offered to such child. However, in the unfortunate situation, where for several myriad factors, the parents of such child are unwilling to or genuinely not in a position to care for such child, then, the "parens patriae" doctrine, will oblige the State to assume parental responsibility in relation to such child.

132] Even apart from the "parens patriae" doctrine, the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015, will apply to such an unfortunate situation. There are detailed provisions under the Juvenile Justice Act to deal with cases of "abandoned child" as defined under section 2(1) or "child in need of care and protection" as defined in section 2(14) of the Juvenile Justice Act. The hospital/clinic authorities, must take necessary measures as prescribed under the Juvenile Justice Act to deal with such unfortunate situations. The best interest of the child, must be the primary consideration in all such matters.

133] According to us, both the parens patriae doctrine as well as provisions of Juvenile Justice Act obliged the State to assume parental responsibility in relation to such children. Therefore, the State, consistent with the provisions of the Juvenile Justice Act will have to protect and take care of such children, should, such need arise. Mr. Vagyani and Ms.Kantharia, the learned Government Pleaders, on the basis of instructions, have assured this Court, that consistent with the provisions of section 27 of the Juvenile Justice Act, the State Government, where it has not already done so, will by notification in the Government Gazette constitute for every District, one or more Child Welfare Committees (CWC) for exercising the powers and discharging the duties conferred upon such Committees in relation to children in need of care and protection under the Juvenile Justice Act.

134] The learned Government Pleaders, on the basis of instructions, have assured this Court that the State and its agencies like CWC etc. will, after compliance prescribed procedures, declare such children legally "free for adoption", in case the enquiries establish that such children have no one to care for or are abandoned or surrendered. In any case, we direct the State and its agencies to take all steps in this regard, keeping in mind the principle of the best interests of such children."

17. On 16.10.2023, the **Hon'ble Apex Court delivered a judgment in Miscellaneous Application No.2157 of 2023 in Writ Petition (Civil) No.1137 of 2023,** considering the provisions of Medical Termination of Pregnancy Act and observed in para Nos. 24 to 28, as under:-

"*24. As noticed above, the length of the pregnancy has crossed twenty-four weeks. It is now approximately twenty-six weeks and five days. A medical termination of the pregnancy cannot be permitted for the following reasons:*

a. *Having crossed the statutory limit of twenty-four weeks, the requirement in either of Section 3(2B) or Section 5 must be met;*

b. *There are no "substantial fetal abnormalities" diagnosed by a Medical Board in this case, in terms of Section 3(2B). This Court called for a second medical report from AIIMS to ensure that the facts of the case were accurately placed before it and no fetal abnormality was detected; and*

c. *Neither of the two reports submitted by the Medical Boards indicates that a termination is immediately necessary to save the life of the petitioner, in terms of Section 5.*

25. Under Article 142 of the Constitution, this Court has the power to do complete justice. However, this power may not be attracted the every case. If a medical termination were to be conducted at this stage, the doctors would be faced with a viable foetus. One of the options before this Court, which the email from AIIMS has flagged, is for it to direct the doctors to stop the heartbeat. This Court is averse to issuing a direction of this nature for the reasons recorded in the preceding paragraph. The petitioner, too, did not wish for this Court to issue such a direction. This was communicated by her to the court during the course of the hearing. In the absence of a direction to stop the heartbeat, the viable foetus would be faced with a significant risk of lifelong physical and mental disabilities. The reports submitted by the Medical Board speak for themselves.

26. For these reasons, we do not accede to the prayer for the medical termination of the pregnancy.

27. The delivery will be conducted by AIIMS at the appropriate time. The Union Government has undertaken to pay all the medical costs for the delivery and incidental to it.

28. Should the petitioner be inclined to give the child up for adoption, the Union Government has stated through the submission of the ASG that they shall ensure that this process takes place at the earliest, and in a smooth fashion. Needless to say, the decision of whether to give the child up for adoption is entirely that of the parents."

18. On 20th June, 2023, this Court (Coram: Ravindra V. Ghuge and Y. G. Khobragade, JJ.) passed the Judgment in **W.P. No.6340 of 2023, XYZ v/s State & Anr.,** holding that if a child would be born alive, after the full term natural delivery or by forcible medical intervention delivery, the issue would be about a live child being born. The medical report clearly indicated that a live baby would be born and the baby would be required to be kept in NICU for survival and refused permission for the termination of pregnancy.

19. On 26.07.2023, this Court delivered a judgment in Writ Petition No. 8584 of 2023 in the case of "**X" v/s The State of Maharashtra & Ors.**, and upheld the judgment delivered in Writ Petition No.6340 of 2023. The view taken by this Court upheld by the Hon'ble Apex Court in Misc. Application No.2157 of 2023 cited (supra).

20. During the course of hearing the learned Counsel for the Petitioner given the date of birth is 08.08.2006, therefore, it appears that on the day of lodging of FIR, she is more than 17 years old.

21. In the case in hand, though the Petitioner No.1 alleged about sexual assault at the hands of the accused prior to 4 – 5 months, but the Petitioner No.1/victim did not disclose the said fact either to her mother or anyone and kept mum for long period until she was brought for medical examination. The Medical Board's Report does not suggest about finding abnormalities in the foetus. The Medical Board's Report shows that, the Petitioner No.1 victim is fit for termination of pregnancy on the humanitarian ground. The termination of pregnancy may be by vaginal route or by cesarean section, as the victim Petitioner No.1 has completed 25.1 weeks. There are chances of live birth of baby but chances of survival is minimal. Therefore, it prima facie appears that the foetus developed beating heart. Under these circumstances, the Medical Officer would be faced with a viable foetus and it will require to direct the Doctors to stop the heartbeat. In the absence of a direction to stop the heartbeat, the viable foetus would be faced with a significant risk of lifelong physical and mental disabilities.

22. The question, therefore, arises is that, if a live baby will be born even today after a forcible delivery of the child, considering the request of the probable mother for terminating the pregnancy, it would lead to an under developed live child being born. There are chances of certain deformities being developed due to such forcible delivery. The disadvantage of permitting forcible delivery of the child today is that a child which would have naturally developed into a well grown baby in the 40th week, will have to be brought into this world at a premature stage and that too forcibly.

23. Taking into consideration the Medical Board's Report before us today, it clearly indicates that, a live baby would be born and the baby may survive. Therefore, if the foetus of more than 25 weeks and above is permitted to be aborted, which is going to be a forced delivery, there may be every chances of abnormalities in the child, which would handicap the child permanently. Needless, to say that, when a live child is going to be born even today, we might as well let the child be born after 12-13 weeks and if the petitioner desires to give away the child to an orphanage, she shall have the liberty of doing so.

24. The learned AGP has expressed his apprehension as regards keeping the girl in the hospital for 15 weeks. The biological parents have instructed the learned Advocate to make a statement that after the child is born, it would be handed over to an orphanage for adoption. Naturally, if the baby is well developed and delivered naturally or as a full term baby, there would be no deformity and the chances of adoption would be brightened.

25. In the alternate, the learned Counsel for the Petitioners pray for admitting the Petitioner No.1 in the shelter home at Nanded.

26. We have already held in our judgment dated 20th June 2023 passed in **Writ Petition No. 6340 of 2023** (supra) that, there are certain social organizations which take care of such 'would be mother' mothers like "**Mata Anusaya Mahila Rajyagruha, Shivaji Nagar, Nanded"** (Mother Home), can be lodged. Likewise, we permit the Petitioner (biological mother) and the pregnant lady (would be mother) to opt for either of these shelter homes. If that happens with the consent of the biological mother and the 'would be mother', we direct the concerned authorities at the relevant place to ensure that a female Psychologist is provided to take care of the 'would be mother'.

27. We have also directed the said organization to ensure that proper medical assistance is provided to the ‘would be mother’ and she shall be given every assistance to be admitted in the hospital at the right time when the delivery is to occur. Subject to following the medical protocol, if the ‘would be mother’ desires to hand over the child in adoption, she would be at liberty by following due procedure laid down in law. At this stage the learned counsel for the petitioner submitted that, the Petitioner willing to say at shelter home i.e. Mata Anusaya Government Mahila Rajyagruha, Shivaji Nagar, Nanded. Therefore, the Petitioner is hereby permitted to stay in said shelter home.

28. The District Officer, Women and Child Development Department Nanded is hereby directed to assist the ‘Would Be Mother’ and shall have interaction with her on routine basis in order to monitor her condition.

29. Besides free medical assistance, all other facilities as are normally made available to the inmates of the Mother Home and especially to the pregnant women, would be extended to the petitioner. Bedsides, this the assistance of a counselor/psychiatrist/

motivator, would also be extended to the petitioner in order to ensure that she is at peace and is in a stable physical and mental condition.

30. Pursuant to the above, in the event, the petitioner needs any assistance beyond what is provided under this order or if she is in any difficulty and requires legal or medical assistance, she is at liberty to make such request directly to the concerned authorities or through a civil application in this Court. It is made clear that, after the child is delivered and the time is ripe for the petitioner to leave the Mother Home, she is at liberty to take a decision as to whether, she desires to keep the child or seek assistance of the Child Welfare Committee.

31. Since the trial against the accused for the sexual offence may come into force, the Medical Officer shall collect the DNA sample and it should be preserved and be examined.

32. In view of the above discussions, the present **Petition is disposed off**. Accordingly, Rule is discharged.

[Y. G. KHOBRAGADE, J.] **[RAVINDRA V. GHUGE, J.]**

SMS