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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 31st January, 2023

+ **W.P.(C) 1103/2023 and CM APPL. 4351/2023, 4352/2023**

MINOR A THROUGH HER LEGAL GUARDIAN Petitioner

Through: Mr. Shreyans Singhvi, Ms. Tanuja Singh & Ms. Kanika Sharma, Advocates. (M:9267958702)

versus

GOVERNMENT OF NCT OF DELHI & ANR. Respondents

Through: Ms. Hetu Arora Sethi, ASC WITH Mr. Siddarth Agarwal, Advocate for R-1. (M:9045513840) Mr. Kirtiman Singh, CGSC with Ms. Vidhi Jain, Advocate. Dr. Bindu Bajaj, Dr. Yamini, Dr. Shefali Gupta and Dr. Anita Yadav in person through virtual mode.

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. The present petition has been filed by the Petitioner through her legal guardian i.e. her mother, who has joined the Court proceedings today virtually, seeking directions to the Respondents to terminate the pregnancy of the Petitioner.
3. The present is yet another unfortunate situation involving a minor who is 13 years of age. Her father is a man of limited economic means and runs a small momos shop and her mother works as a maid with a daily income. The family consists of the Petitioner's parents as also her two

siblings.

4. It is the case of the Petitioner that she was subjected to sexual assault and FIR being FIR No. 37/2023 dated 21st January, 2023 was registered in respect of the same under the POCSO Act, 2012.

5. A case is also registered under the Juvenile Justice (Care and Protection of Children) Act, 2015 with the Child Welfare Committee (District South) as case no. 66 of 2023. The Child Welfare Committee directed on 23rd January, 2023 that the CMO, Safdarjung hospital ought to take a decision in respect of the further action under the Medical Termination of Pregnancy Act, 1971. In terms of the same, a board consisting Dr. Anjali Dabral, Professor, HAG & HOD, Obst & Gynae, Dr. Yamini Sarwal, Dr. Anita Yadav and Dr. Shafali Gupta (*hereinafter, "medical board"*) examined the Petitioner and filed a report. As per the said report, the Medical Board has opined that the pregnancy cannot be terminated as the period of gestation is more than 24 weeks and there is no gross congenital anomaly.

6. The petition was listed yesterday, i.e. on 30th January, 2023 and the Medical Board was directed examine the Petitioner and appear before the Court today to appraise the court as to the risks involved in both the continuation as also the non-continuation of the pregnancy of the Petitioner.

7. The medical board consisting of Dr. Bindu Bajaj, Dr. Yamini, Dr. Shafali Gupta and Dr. Anita Yadav from the VMMC Safdarjung Hospital have joined the proceedings virtually today. They submit that the Dr. Anjali Dabral has been replaced by Dr. Bindu Bajaj as the HAG & HOD, Obst & Gynae.

8. The Court has interacted with them. From the interaction, it appears to

the Court that there are risks involved for the Petitioner in the termination of pregnancy as also in continuing with the pregnancy.

9. The Petitioner is only 13 years of age who is stated to be a victim of sexual assault and a FIR has already been registered for the same. Further, the Petitioner does not wish to carry on with the pregnancy. This stand of the Petitioner has been confirmed by her mother, who is acting as her legal guardian. Under these circumstances, keeping in mind the interest of the life of the Petitioner, her tender age, her education and keeping in mind the social circumstances, even though the gestational period is more than 25 weeks, this Court is of the opinion that the pregnancy is terminated.

10. Accordingly, the medical board of Safdarjung Hospital is directed to proceed with termination of pregnancy tomorrow i.e. on 1st February, 2023. The Petitioner shall get admitted into the hospital tomorrow morning around 9 am. The doctors in the medical board have assured that they would give her the best possible care during the process of termination of pregnancy.

11. A sample of foetus shall also be preserved for the purpose of criminal case, which may be required in future.

12. Considering that the Petitioner is a victim of sexual assault, the cost of the termination of the pregnancy shall be borne by the Ministry of Health and Family Welfare, Government of India.

13. The DCPA shall, in terms of the order dated 25th January, 2023 of Child Welfare Committee (District South), shall release a sum of Rs.10,000/- for immediate nutrition and other medical needs of the Petitioner post the termination of pregnancy.

14. The writ petition along with all pending applications is disposed of in the aforementioned terms.

15. Copy of this order be given *dasti* under the signature of the Court Master.

**PRATHIBA M. SINGH
JUDGE**

JANUARY 31, 2023/dk/kt

