



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.10095 OF 2024

X.Y.Z.

**VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

...
Ms.Shilpa L. Awchar, Advocate for the Petitioner.
Ms.Neha B. Kamble, AGP for the Respondents/ State.
...

**CORAM : RAVINDRA V. GHUGE
&
Y. G. KHOBRAGADE, JJ.**

DATE :- 17th September, 2024

Per Court :-

1. On 13.09.2024, we had passed the following order:-

- “1. *This Petition was filed yesterday evening through the mother of the victim, praying for a direction to terminate the pregnancy of the victim, under the provisions of Medical Termination of Pregnancy Act, 1971. Hence, this matter was listed today in the ‘first on board’ category.*
2. *The victim is from Nandurbar. The date of birth of the victim is 14.08.2011. The mother of the victim makes a statement that her daughter has suffered physical abuse at the hands of her biological father. The First Information Report has been registered on 01.09.2024 bearing No. 0537/2024, with the Police Station, Shahada. The victim is presently admitted in the Government Medical College and Hospital at Nandurbar.*
3. *The learned AGP has taken instructions and submits that the gestational period of the*

pregnancy was 25 weeks and 4 days on 02.09.2024. A Medical Board can be constituted tomorrow at the Government Medical College and Hospital at Nandurbar. She submits that the said hospital has the facility to carry out the medical tests of the victim and an opinion can be generated as to whether the termination of pregnancy is possible. If the foetus has a beating heart, the victim will have to be transferred to the Government Medical College and Hospital at Aurangabad which has a level three facility for termination of pregnancy under the provisions of the 1971 Act.

4. *In view of the above, we direct the Medical Board of Government Medical College and Hospital at Nandurbar, to carry out the medical examination of the victim tomorrow, who is already admitted in the said hospital. The mother of the victim would sign the necessary papers for carrying out such medical examination. The Medical Board shall generate a report stating clearly as to whether (a) termination of pregnancy is possible, (b) whether a foetus with a beating heart is noticed in the womb of the probable mother and, (c) what would be the risks involved if the procedure for termination of pregnancy is to be performed. Let the report be generated to the office of the learned Government Pleader through email, by 16.09.2024.*
5. *17.09.2024 is a holiday for the Courts in the State of Maharashtra on account of Anant Chaturdashi. Nevertheless, considering the issue before us, the Court would assemble at 10.30 on 17.09.2024 (Tuesday). The office of the learned Government Pleader would present the report before us. By way of a precaution and in anticipation, if the foetus has a beating heart, the Government Medical College and Hospital at Nandurbar would advice the mother of the victim to admit the victim to the Government Medical College and Hospital at Aurangabad, on 17.09.2024.*
6. *We request the learned GP/AGP to issue appropriate directions to the Dean of the Government Medical College and Hospital, Aurangabad to ensure that the concerned medical*

experts would carry out the procedure for termination of pregnancy, on 17.09.2024 itself. Simultaneously, the District Superintendent of Police, Nandurbar shall issue appropriate directions to the Investigating Officer and shall ensure that the medical kit required for preservation of the blood samples for the DNA test/ forensic lab, is made available to be transported by the Investigating Officer to Aurangabad, on 17.09.2024 in order to be utilised during the termination of pregnancy, if so directed by this Court.

7. *List this Petition at 10.30 am on 17.09.2024.”*

2. We are holding a special court sitting today keeping in view the urgency involved.

3. Pursuant to our above direction, the Medical Board of the Government Medical College and Hospital (GMCH), Nandurbar, has tendered a report to the office of the Government Pleader, dated 14.09.2024 (three pages). A printout of the email report is placed before us, which is marked as ‘X’ for identification.

4. The medical report reads as under:-

“In addition to report submitted by medical board of Government Medical College Nandurbar on 14/9/2024, Opinion formed by Medical Board after medical examination as

instructed by Honorable High Court Aurangabad is as follows,

a) Termination of pregnancy is possible with risk mentioned below.

b) Foetus with beating heart is noticed in the womb of the probable mother.

c) Following risks are involved if the procedure performed at this time and at term.

Considering that child suffers with sickle cell disease and she is 13 yr old the risk faced by the child-

1) Termination at this time

<i>Risk to Mother (13 yr old child)</i>	<i>Risk to fetus in womb</i>
<i>Teenage pregnancy</i>	<i>Live with beating heart</i>
<i>Anemia</i>	<i>Prematurity</i>
<i>Sickle cell anemia</i>	<i>Chances of having sickle cell disease or trait</i>
<i>Postpartum haemorrhage</i>	
<i>Sickle cell crisis</i>	
<i>Required blood transfusion</i>	
<i>Elective lscs</i>	
<i>Life threatening</i>	

2) Pregnancy is continued till term

<i>Risk to Mother (13 yr old child)</i>	<i>Risk to fetus in womb</i>
<i>Teenage pregnancy</i>	<i>Live with beating heart</i>
<i>Anemia</i>	<i>Chances of having sickle cell disease or trait</i>
<i>Sickle cell anemia</i>	
<i>Postpartum haemorrhage</i>	
<i>Sickle cell crisis</i>	
<i>Required blood transfusion</i>	
<i>Elective lscs</i>	
<i>Life threatening</i>	

In both scenario due to sickle cell disease and teenage pregnancy life threatening situation to mother (13 yr old child).

As per MTP Act for such termination USG machine required, Level III PCPNDT registered center is required (GMC

Nandurbar is not registered for level III PCPNDT), Baby should not born live. Level III PCPND center and facility is available at GMC Aurangabad.”

5. The learned AGP submits that the victim has already been transferred to the GMCH at Chhatrapati Sambhajanagar on 15.09.2024. The team of doctors would be performing the termination of pregnancy, if permitted by this Court, today itself. The Investigating Officer Shri Pravin Shankar Sonawane, Assistant Police Inspector, Shahada Police Station, Nandurbar, is present in the Court along with the required kit which is utilized for the preservation of the blood samples for DNA/ forensic lab. We appreciate the efforts of the Superintendent of Police, Nandurbar and the Investigating Officer.

6. Considering the medical report reproduced above, we permit the team of doctors at the GMCH, Chhatrapati Sambhajanagar to proceed to terminate the pregnancy by using USG Machine, Level III, PCPNDT which is registered centre at GMCH at Chhatrapati Sambhajanagar. Under the guidance of the Investigating Officer, the required samples shall be preserved in the medical kit that is brought along by the Investigating Officer.

7. Keeping in view that the victim is from a tribal area and is a sickle cell affected person, we call upon the learned Dean of GMCH at Nandurbar as well as the learned Dean of GMCH at Chhatrapati Sambhajnagar, to waive the medical charges/ bills, if any, in relation to the victim. All medical assistance of such nature, as is normally required to be extended to such patients, shall be so extended without charges and preferably under the sickle cell scheme or any such scheme as is permissible in law.

8. We appreciate the efforts of the learned AGP Ms. Neha Kamble in taking all the efforts and being a part of the special hearing on a holiday.

9. With the above directions, **this Writ Petition is disposed off.**

kps

(Y. G. KHOBRAGADE, J.)

(RAVINDRA V. GHUGE, J.)