

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

**WRIT PETITION NO. 2936 OF 2024**

A ( Mother Of X ) ...Petitioner  
Versus  
The State of Maharashtra and Ors. ...Respondents

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Ms. Pooja Phagnekar h/f Mr. Ashley Cusher, Advocate for the Petitioner.

Mrs. M. P. Thakur, A.G.P. for the Respondent – State.

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**CORAM : PRAKASH D. NAIK, &  
N. R. BORKAR, JJ.**

**DATE : 7<sup>th</sup> MARCH, 2024.**

**P.C.:**

1. The Petitioner seeks following prayers:

“a) This Hon’ble Court be pleased to issue Writ in the nature of Mandamus under Article 226 of the Constitution of India and be pleased to shift Victim “X” for delivery in neutral surroundings with state’s aid.

b) This Hon’ble Court be pleased to provide a para legal volunteer and free medical aid (Considering the welfare of the minor girl ‘X’) as the Court deems fit for or;

c) Pending the hearing and the final disposal of this petition the Hon’ble Court may be pleased direct the Respondents to provide free medical facilities during the termination of pregnancy of the minor victim ‘X’.

d) This Hon’ble Court be pleased to issue directions to the respondents for counselling of the Victim ‘X’ through an agency who are specialized in Pre and Post Pregnancy counselling especially for the minor victims of Rape and sexual assault.

- e) This Hon'ble Court be pleased to issue a direction to the Respondents directing them to Compensate the Victim under Manodhairya Scheme and to compensate and give benefits of new rules laid in Protection of Children From Sexual Offences Rules, 2020 and to appoint Para-legal volunteer for assisting the victim 'X'.
- f) This Hon'ble Court be pleased to issue a directions for rehabilitation and education of the victim considering her age and future.”

2. The Petitioner is a mother of minor child aged 15 years and 5 months old and victim of sexual assault. The FIR was registered with Ganeshpuri Police Station vide C.R. No.20/2024 for offences under Section 376, 376(2)(n) of IPC and Sections 4, 8, 12 of POCSO Act. The Petitioner had preferred Criminal Writ Petition No.2060 of 2024 and prayed for termination of fetus of Petitioner's daughter, who was pregnant of 30 weeks and 3 days as of 12.02.2024. The prayer for termination of pregnancy was not allowed. The Petition was disposed off vide order dated 16.12.2024. The said order was challenged before Hon'ble Supreme Court. The Special Leave Petition was disposed off. The apex Court observed that there is no infirmity in the order passed by this Court. The learned counsel for Petitioner submitted before the Hon'ble Supreme Court that since it is a case of accidental pregnancy, the victim and her family are facing unpleasant social situation in the locality where thy reside and therefore the

Petitioner be permitted to again move the High Court, even before the birth of child, to address the issue of safe delivery with the State's aid in a neutral surrounding. The Supreme Court reserved the liberty as above while disposing of Petition.

3. This Petition was mentioned on 28.02.2024 and it was directed to be listed on 29.02.2024. On 29.02.2024, learned A.G.P fairly pointed out that woman and child development is required to impleaded as respondent. Vide order dated 29.02.2024, the Petitioner was permitted to implead the above party as Respondent No.4. The amendment was carried out. The Petition was heard on 05.03.2024. Affidavit filed on behalf of Respondent No.4 was taken on record. The Petition was directed to be listed on 06.03.2024 to enable Advocate for Petitioner to take instructions. The Petition was listed on 06.03.2024. The learned Advocate for Petitioner sought leave to amend to add Respondent No.5. Leave granted.

4. The Respondent No.4 has filed an Affidavit dated 4<sup>th</sup> March 2024 stating that the Government State Home provide facilities to support girls and women of all ages (16 to 60 years) and meet a range of needs of the survivors: basic necessities, like shelter, medical aid and legal assistance, Police complaint, counselling and

emotional support. As per the Government Resolution dated 02.06.2008, the pregnant girl even below age of 16 years can be admitted to the Government State Home. It is further stated that in all the districts, the State Government has established Government State Home for the protection of such women. In the present case, Thane District Shanti Sadan State Home, Ulhasnagar, who is the Government State Home with necessary facilities as mentioned in Government Resolution dated 25.05.2001 and 02.06.2008 is available. This Shelter Home can take utmost care of the present victim with all the necessary medical help as required. Thane District Shanti Sadan State Home, Ulhasnagar at Ulhasnagar and is having facilities of medical doctors and Auxiliary Nurse Midwife (ANM). As far as present case is concerned, if the victim approaches the Thane District Shanti Sadan State Home, Ulhasnagar situated at Ulhasnagar, all the necessary facilities mentioned in the Government Resolutions can be provided to her. It is also stated that the victim is minor, compensation to the victim can be provided under Manodhairya Scheme as per Government Resolution dated 01.01.2024.

5. Learned Advocate for the Petitioner on instructions submitted that the facilities referred to in the affidavit filed by Respondent

No.4 may be provided to the victim child (daughter of the Petitioner).

6. In view of the above, the facilities referred to in Affidavit filed on behalf of Respondent No.4 be provided to the Petitioner's daughter.

7. The Petitioner shall cooperate with the Authorities in providing the aforesaid facilities.

8. The facilities as per the Manodhairya Scheme shall be provided to the victim as expeditiously as possible.

9. Writ Petition is disposed off accordingly.

**(N. R. BORKAR, J.)**

**(PRAKASH D. NAIK, J.)**