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

+ **W.P.(CRL) 2792/2024**

MINOR P THR HER FATHERPetitioner

Through: Mr. Anwesh Madhukar
(DHCLSC) & Ms. Prachi
Nirwan, Adv. with
petitioner in person with
parents

versus

STATE NCT OF DELHI AND ANRRespondents

Through: Mr. Amol Sinha, ASC for
the State
Ms. Arunima Dwivedi,
CGSC with Ms. Pinky
Pawar, Mr. Aakash Pathak
& Mr. Amit Dutta, Advs.
for UoI
SI Ankesh Meena, PS-
Sangam Vihar

**CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN**

ORDER
11.09.2024

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CRL.M.A. 27316/2024 (for exemption)

1. Exemptions allowed, subject to all just exceptions.
2. The application stands disposed of.

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3. The present writ petition is filed seeking direction to Respondent Nos. 1 and 2 to medically terminate the pregnancy of the petitioner in terms of Explanation No. 2, Section 3(2) of the Medical Termination of Pregnancy Act, 1971.
4. By order dated 09.09.2024, the Medical Superintendent, Safdarjung Hospital was directed to examine the petitioner after constituting an appropriate Medical Board. The Safdarjung



Hospital was also directed to assess the physical and mental well-being of the petitioner for the purpose of termination of pregnancy.

5. The report of the Safdarjung Hospital has been handed over in Court today.

6. After assessing the physical and mental state of the petitioner, it is opined that the termination of the pregnancy can be carried out with the usual risk associated with the legal abortions at this gestational age.

7. Undisputedly, the petitioner is 15-16 years of age and is a rape victim.

8. Considering the age of the petitioner and the mental and physical trauma which she would have undergone pursuant to the heinous crime being committed upon her, I am of the opinion that the pregnancy caused to the petitioner on account of the sexual assault would permanently scar her psyche and would cause grave and irreparable harm to her physical and mental health.

9. Undoubtedly, the Medical Termination of Pregnancy Act, 1971, empowers the foetus to be terminated up to the 24th week of pregnancy, however, the Courts have recognised that the High Courts exercising power under Article 226 of the Constitution of India, in exceptional circumstances, can sanction the termination of pregnancy in appropriate cases. The present case, in the opinion of this Court, falls in such category where the pregnancy should be allowed to be terminated.

10. In view of the above, the present writ petition is allowed and the Safdarjung Hospital is directed to attend to the petitioner and perform the procedure for termination of the pregnancy.

11. The petitioner is present in Court with her parents.

12. The petitioner is permitted to get herself admitted in the



Safdarjung Hospital today itself on the strength of the present order.

13. The Safdarjung Hospital is directed to comply with the order on the strength of the copy of the order signed by the Court Master.

14. Needless to say, during the procedure for termination, if the hospital/ attending Doctor is of the opinion that there is a risk to the life of the petitioner, he would be at discretion to cancel the procedure for termination of pregnancy.

15. Safdarjung Hospital is also directed to preserve the foetus for the purpose of DNA testing that may be required for future reference in the criminal case.

16. The cost, if any, is directed to be borne by the State.

17. The petition is allowed in the aforesaid terms.

18. *Dasti under the signature of the Court Master.*

AMIT MAHAJAN, J

SEPTEMBER 11, 2024

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