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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(CRL) 3289/2024**

Ms. S

.....Petitioner

Through: Mr. Shubham Prajapati Advocate
along with petitioner in-person.

versus

STATE OF NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Rahul Tyagi, ASC for the State
with SI Doli Tevathia, P.S.: Adarsh
Nagar.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

23.10.2024

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Vide order dated 21.10.2024, respondent No.2/Babu Jagjivan Ram Hospital was directed to constitute a requisite medical board to assess the medical feasibility and advisability of the termination of the petitioner's pregnancy.

2. Mr. Rahul Tyagi, learned ASC (Criminal) appearing for the State informs the court that the petitioner was examined at the Babu Jagjivan Ram Hospital, Jahangir Puri, Delhi on 02.10.2024, since she had stated that does not wish to continue with the pregnancy. However, by reason of the fact that the said hospital does not have the facilities to carry-out the requisite medical procedures, the petitioner was referred to Dr. Baba Saheb Ambedkar Hospital, Rohini, Delhi.
3. Mr. Tyagi submits, that on an application made by the Investigation Officer (I.O.), a medical board was constituted by Dr. Baba Saheb Ambedkar Hospital to render an opinion on the termination of petitioner's pregnancy.



4. Mr. Tyagi has handed-up Status Report dated 22.10.2024, which encloses Report dated 08.10.2024 rendered by the Medical Board of the Dr. Baba Saheb Ambedkar Hospital. The same is taken on record.
5. The Medical Board's Report dated 08.10.2024 says the following:

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Justification for the decision:

- *20 yr unmarried girl with pregnancy as a result of alleged sexual assault. Continuing the pregnancy may constitute a grave injury to the mental health of victim.*
- *Pregnancy is more than 28 wk [28wk + 3d]. Baby may be seen alive and may survive and may have complications and problems related to prematurity.*
- *For termination of pregnancy, if medical method fails, surgical interventions may be required with its inherent risk and complications.*

7. Physical fitness of the woman for the termination of pregnancy:

- ✓a. Yes – With high risk in view of MDR, tuberculosis, and moderate anaemia.*
- b. No”*

6. The court has heard Mr. Tyagi, learned ASC for the State; as well as Mr. Shubham Prajapati, learned counsel for the petitioner.
7. Dr. Anshul Rohtagi, Gynaecologist at Babu Jagjivan Ram Hospital is also present before this court. The court has interacted with Dr Rohtagi in order to elicit a proper understanding of the report of the Medical Board; and to appreciate the exact meaning, purport and implications of what has been stated in that report.



8. The court has held an in-chambers hearing with the petitioner 'S' and her mother 'L', who have been identified by the Investigating Officer, S.I. Doli Tevathia.
9. Dr. Rohtagi has explained that an attempt to terminate the petitioner's pregnancy, at this late stage, would entail high chances of failure of medical methods for termination; which may then require surgical intervention, with increased inherent risks and complications both for the mother as well as the child, as compared to a normal delivery.
10. Dr. Rohtagi has further clarified that the Babu Jagjivan Ram Hospital does not have the facility to attend to a complicated case such as the present one; and that therefore, the petitioner should be referred to a tertiary level government facility, to ensure the best care for the mother and the child.
11. Though initially the petitioner had expressed the wish that she would *not* want to continue with the pregnancy, after she was explained the medical position, namely that a procedure to terminate a 31-week pregnancy would not be an abortion *but* would instead amount to a premature birth, which could have serious implications on the child, after consulting with her mother the petitioner is agreeable to the following course of action :
 - 11.1. The petitioner has shown the desire to carry her pregnancy to term;
 - 11.2. In order to obviate social implications, the petitioner would shift into Nirmal Chhaya Home, Hari Nagar, New Delhi *forthwith*; and would stay there until the child is born; and



- 11.3. Once the child is born, it would be given-up for adoption through the Central Adoption Resource Authority ('CARA') in accordance with applicable rules and regulations, *unless* at that stage the petitioner changes her mind and decides to retain the child.
12. In view of the above, the present petition is disposed-of with the following directions :
- 12.1. The I.O. is directed to ensure that the petitioner is housed at Nirmal Chhaya Home, Hari Nagar, New Delhi as soon as possible; and in any event, within the next 03 days;
- 12.2. The Superintendent/Officer-in-charge of Nirmal Chhaya Home is directed to ensure that the petitioner receives all necessary medical and other care and nutrition to ensure that the pregnancy is taken to term, including taking her for the required check-ups to a tertiary level government medical facility, which would be able to handle the case;
- 12.3. During the petitioner's stay at Nirmal Chhaya Home, the petitioner's family would have access to her, in accordance with applicable rules; and
- 12.4. The State has agreed to bear all medical expenses in connection with the pregnancy and birth, as may be required for the safety and welfare of the petitioner and her child.
13. As recorded above, though at this stage the petitioner has expressed that she would want to give the child up for adoption through CARA, the petitioner shall be entitled to review that decision, once the child is born.



14. This court expresses its appreciation for the assistance rendered by Dr.Anshul Rohtagi.
15. A copy of this order be forwarded to Superintendent/Officer-in-charge of Nirmal Chhaya Home, Hari Nagar, New Delhi for information and compliance.
16. A copy of this order be given to the I.O. *dasti* under signatures of the court master.

ANUP JAIRAM BHAMBHANI, J

OCTOBER 23, 2024

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