



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

902 WRIT PETITION NO.15621 OF 2025

X.Y.Z.

VERSUS

The State Of Maharashtra Through Secretary And Another

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Ms. S. L. Awchar, Advocate for the Petitioner.

Mr. V. M. Kagne, AGP for Respondents/State.

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**CORAM : SMT. VIBHA KANKANWADI &
HITEN S. VENEGAVKAR, JJ.**

DATE : 24 DECEMBER 2025

ORDER (Per Hiten S. Venegavkar, J.) :

. Present petition is filed by a petitioner, who is 30 years old lady and has been subjected to sexual assault for which an offence bearing FIR No.670 of 2025 has been registered with Ahilyanagar Camp Police Station for the offences punishable under Sections 64(2)(k), 64(2)(i), 64(2)(m), 91, 75(1), 75(2), 351(2), 351(3), 352 of Bharatiya Nyaya Sanhita, 2023 and under Sections 3(1)(w)(i), 3(1)(w)(ii) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. The petitioner in the petition have stated that due to the said sexual assault, she has conceived, which was determined on 18.12.2025

when the petitioner has undergone sonography, in which it was revealed that the period of pregnancy was about 19 weeks and 3 days. The petitioner therefore had approached doctor along with the sonography report and had expressed a desire to terminate the pregnancy as she is unmarried and the pregnancy has been caused against her wish and due to the sexual assault, which was subjected upon her. According to the petitioner, going ahead with the pregnancy, will amount to grave injury to her physical and mental health.

3. While examining the case of the petitioner, we have taken into consideration Section 3 of the Medical Termination of Pregnancy Act, 1971, which reads as under :-

“3. When pregnancies may be terminated by registered medical practitioners. - (1) Notwithstanding anything contained in the Indian Penal Code (45 of 1860), a registered medical practitioner shall not be guilty of any offence under that Code or under any other law for the time being in force, if any pregnancy is terminated by him in accordance with the provisions of this Act.

(2) Subject to the provisions of sub-section (4), a pregnancy may be terminated by a registered medical practitioner,-

(a) where the length of the pregnancy does not exceed twelve weeks if such medical practitioner is, or

(b) where the length of the pregnancy exceeds twelve weeks but does not exceed twenty weeks, if not less than two registered medical practitioners are.

of opinion, formed in good faith, that,-

(i) the continuance of the pregnancy would involve a risk to the life of the pregnant woman or of grave injury physical or mental health ; or

(ii) there is a substantial risk that if the child were born, it would suffer from such physical or mental abnormalities as to be seriously handicapped.

Explanation 1.-Where any, pregnancy is alleged by the pregnant woman to have been caused by rape, the anguish caused by such pregnancy shall be presumed to constitute a grave injury to the mental health of the pregnant woman.

Explanation 2.-Where any pregnancy occurs as a result of failure of any device or method used by any married woman or her husband for the purpose of limiting the number of children, the anguish caused by such unwanted pregnancy may be presumed to constitute a grave injury to the mental health of the pregnant woman.

(3) In determining whether the continuance of pregnancy would involve such risk of injury to the health as is mentioned in sub-section (2), account may be taken of the pregnant woman's actual or reasonable foreseeable environment.

(4) (a) No pregnancy of a woman, who has not attained the age of eighteen years, or, who, having attained the age of eighteen years, is a lunatic, shall be terminated except with the consent in writing of her guardian.

(b) Save as otherwise provided in C1.(a), no pregnancy shall be terminated except with the consent of the pregnant woman.”

Section 3 permits termination of pregnancies by registered medical practitioners on certain conditions prescribed therein and it also permit termination of the pregnancy where the length of pregnancy does not exceed twenty weeks. Rule 3 of the Medical Termination of Pregnancy Rules, 2003 also states that the women who are eligible for termination of pregnancy upto 24 weeks and categorizes the women as women who are subjected of survivors of sexual assault or rape or incest, minors etc. Along with the aforesaid provisions of law, we have also perused Section 69 of Bharatiya Nyaya Sanhita, 2023, which reads as under :-

69. Sexual intercourse by employing deceitful means, etc.-

Whoever, by deceitful means or by making promise to marry to a woman without any intention of fulfilling the same, has sexual intercourse with her, such sexual intercourse not amounting to the offence of rape, shall be punished with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine.

Explanation.—“deceitful means” shall include inducement for, or false promise of employment or promotion, or marrying by suppressing identity

4. On perusal of the contents of the FIR and the offence leveled in the said FIR, we are of the opinion that the police should have incorporated Section 69 of the Bharatiya Nyaya Sanhita, 2023 as one of the offence which was attracted in the facts of the case. However, merely because

the police has not applied the said offence, this Court cannot overlook the fact that the allegations squarely falls within the ingredients of Section 69 of Bharatiya Nyaya Sanhita, 2023 and, therefore, we take the same into consideration. As we were *prima facie* satisfied that the period of pregnancy was less than 24 weeks and secondly, the category of the petitioner falls squarely within Rule 3-B of Medical Termination of Pregnancy Rules, 2003, we had directed the petitioner to undergo the test before the Medical Board, which was to be constituted by the Dean and submit a report after conducting the necessary tests.

5. Today, the learned AGP has submitted a medical report dated 24.12.2025 issued by the Medical Board consisting of six doctors of different faculties. The said Medical Board after carrying out investigation and also after considering the earlier reports of the present petitioner have opined that the termination of pregnancy of the petitioner can be allowed. The said report dated 24.12.2025 is taken on record and marked as Exhibit-'X'.

6. In view of the aforesaid medical report issued by the expert doctors in the field, we proceed to pass the following order :-

ORDER

I) The writ petition stands allowed.

II) The petitioner is permitted to terminate her pregnancy at Ghati Hospital, Chhatrapati Sambhajanagar, under the proper medical supervision, today or any other earliest day, as per the medical advise.

III) As the criminal case registered by the petitioner is pending trial, we direct the medical officers to preserve the evidence for subsequent DNA Test report by drawing tissues from the foetus in order to use it as a piece of evidence in the ensuing trial to be prosecuted by the petitioner. It is needless to observe that in the event tissues are drawn for the purpose of DNA test the same shall be handed over to the investigating agency by the concerned hospital.

IV) Parties to act upon an authenticated copy of this order.

[HITEN S. VENEGAVKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm