

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9959 OF 2025

XYZ

.....Petitioner

Vs.

The State of Maharashtra & Anr.

.....Respondents

Mr. Sunny Warkar i/b Ms. Harshala Morey, for the Petitioner.

Ms. M. P. Thakur, AGP, for Respondent- State

CORAM : REVATI MOHITE DERE &

DR. NEELA GOKHALE, JJ.

DATE : 23rd July 2025.

P.C.:-

1) By this petition, the Petitioner aged 14 years, a victim of sexual assault, seeks permission of this Court to terminate her pregnancy, which is currently beyond 24 weeks.

2) Vide order dated 18th July 2025, we directed the Dean of the Respondent No.2- Sir J.J. Group of Hospitals to constitute a Medical Board to examine the Petitioner. Accordingly, the constituted Medical Board examined the Petitioner and submitted their Report dated 22nd July 2025 to the Court, through the learned Additional Government Pleader. The said Report is received in a sealed cover. It is opened and taken on record.

- 3) The opinion of the Medical Committee is as under:

“COMMITTEE OPINION

After thorough investigation and examination of the patient, the committee has unanimously concluded as follows---

1.Provisional Diagnosis: 14 yrs. old unmarried Primigravida with anemia at 24.6wks. GA for committee opinion for medical termination of pregnancy.

2. The clinical examination and obstetric ultrasonography suggests pregnancy of 24-26 wks. gestational age. The fetus has no congenital anomalies as per report. There is a possibility of increase in the psychological anguish due to her existing personal and social vulnerabilities on continuing the pregnancy.

3.The fetus has probability of being born alive and may require intensive neonatal care. The fetus may be affected by the complications due to its extreme prematurity.

4. The termination of pregnancy carries a risk, may require surgical intervention, blood transfusion etc. The said risk has been explained to the parents. They are ready to take the risk and give high risk valid informed consent for the same. Hence termination of pregnancy in this case is recommended by this committee.”

4) Mr. Sunny Warkar appears for the Petitioner and Ms. M.P. Thakur, learned AGP represents the State.

5) We have perused the Report. It appears that the Petitioner is mentally and physically fit to undergo the procedure. However, the Committee has opined that the termination of pregnancy carries a risk and may require surgical intervention, blood transfusion, etc and that the said risk has been explained to the parents. The Report is detailed and states that there is a probability of the fetus being born alive and may require intensive neonatal care and may be affected by the complications due to its preterm status. The Committee noting the tender age of the Petitioner has opined that continuing the pregnancy would likely result in psychological anguish due to her existing personal and social vulnerabilities.

6) We interacted with the members of the Medical Board of the Respondent No.2- Hospital in the chambers through VC. The said doctor confirmed that the Petitioner is mentally and physically fit to undergo MTP. He further assured us that the said procedure will be carried out only when the medical parameters of the Petitioner pertaining to her blood count are conducive for the said procedure.

He further stated that the requisite counseling has been done in respect of the Petitioner and her parents as well.

7) Conscious of the right of the Petitioner to reproductive freedom, her autonomy over the body and her right to choice and having considered the findings and opinion of the Medical Board, we permit the Petitioner to medically terminate the pregnancy, if she so desires.

8) The Petitioner is already admitted in Sir JJ Hospital and has indicated her desire that the procedure, etc. to be done in Sir JJ Hospital itself. Considering these facts and circumstances, we issue the following directions:

i) We permit the Petitioner to medically terminate the pregnancy.

ii) The finding of the Board indicates that the hemoglobin levels of the Petitioner are less than 10 gm and thus, the procedure shall be carried out at the earliest and only subject to the medical opinion in respect of correction of anemia of the Petitioner.

iii) The authorities of the Sir JJ Hospital shall also provide post-delivery care to the Petitioner including neo-natal care for the baby, if so required. Considering that, the Petitioner

is a victim of sexual abuse, the Hospital Authorities shall also provide for counseling, post-delivery.

iv) Given that there is an allegation of sexual assault, the Authorities of the Hospital will preserve the appropriate tissue/DNA sample of the fetus/child after its birth and forward the same to the Investigating Officer for ensuing criminal trial.

v) In the event that the Petitioner desires to give the child in adoption after the delivery, the State and its agencies will assume responsibility of the child and take such steps as necessary to rehabilitate the child including exercising the option of placing the child in foster care/adoption by following the due legal process. This shall not however be construed as a direction of this Court binding the Petitioner and the State shall abide by her wishes as expressed at an appropriate stage.

vi) The State is directed to process the compensation under its 'Manodhairya Scheme' and disburse the amount receivable by the Petitioner expeditiously.

9) It is made clear that the Petitioner shall not be discharged from the Hospital till such time that she has recovered and is medically fit to be discharged.

10) The Petition is allowed in the aforesaid terms.

11) Stand over to **31st July 2025** for reporting compliance on the Supplementary Board at serial no. 2.

12) All concerned parties will act on the production of the authenticated copy of this order.

(DR. NEELA GOKHALE, J.)

(REVATI MOHITE DERE, J.)