IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11430 OF 2025

XYZ .....Petitioner

Vs.

The State of Maharashtra .....Respondent

Ms. Gauri Velankar, for the Petitioner.
Ms. M.P. Thakur, AGP for Respondent-State.
Petitioner and his son are present.

CORAM : SANDEEP V. MARNE &
DR. NEELA GOKHALE, JJ.
(VACATION COURT)
DATE : 29TH AUGUST 2025.

P.C.:-

1. The Petitioner's daughter of 17 years of age, is in the 32nd week of pregnancy. She seeks permission for medical termination of the pregnancy.

2. By Order dated 25th August 2025, this Court had directed the Dean of Sir J.J. Group of Hospitals, Mumbai, to constitute a Medical Board in terms of the Medical Termination of Pregnancy (Amendment) Act of 2021 ('MTP Act') to examine the Petitioner' daughter and submit a report to this Court.

3. Accordingly a Medical Board was constituted and its report dated 28th August 2025 is placed before us. We have perused the Report. It is taken on record and marked 'X' for Identification. The Report is unanimous.

4. The conclusive Committee opinion is as under:-

"COMMITTEE OPINION

AFTER CAREFUL EXAMINATION AND STUDY OF ULTRASONOGRAPHY REPORTS, THE BOARD IS OF THE FOLLOWING OPINION:

1. OBSTETRICS AND GYNAECOLOGY: The risk for mother is same if she delivers now or at term. After thorough counseling, both the patient and her relatives have expressed a strong desire for termination of pregnancy at this stage. It is important to note that there is a very high likelihood that the baby will be born alive and may survive with appropriate medical care and interventions. However, as the pregnancy is beyond 24 weeks and the fetus is not anomalous, termination of instant pregnancy does not fall within the purview of this Medical Board under existing legal provisions. If so directed by the Hon'ble Court, termination may be considered in the interest of the mother's psychological health and to prevent grave, irreparable harm to her mental well-being if she is compelled to continue the pregnancy against her wishes.

2. RADIOLOGY: Single Live intrauterine gestation of

mean gestational age 27 weeks and 6 days (+/-3 weeks) with Cephalic presentation posterior placenta EFW-1074 gm with normal AFI & Doppler study.

3. PAEDIATRIC: As fetus has crossed more than 24 weeks of gestation, fetus may be live-born and relatives have been counselled that fetus may require NICU support. Medical termination of pregnancy can be permitted with due risk.

4. PSYCHIATRY: Patient is not suffering from any psychiatric illness. No contraindication for MTP from psychiatry side.

5. MEDICINE: Patient can be taken for MTP with due risk. Patient is fit for procedure from medicine point of view

6. CARDIOLOGY: As patient is currently in third trimester & pre tricuspid left to right shunt is well tolerated in pregnancy; there is no significant difference between cardiac risk at 30 weeks of gestation & at full term. Patient is fit for non cardiac procedure with due cardiac risk.

7. ANAESTHESIA: Patient fit for procedure from anaesthesia point of view."

5. Ms. Gauri Velankar, learned counsel appears for the Petitioner and Mrs. M. P. Thakur, learned AGP represents the State. The Petitioner and his son are present before the Court.

6. Ms. Velankar states that, the daughter of the Petitioner being only 17 years of age, is unable and unwilling to

take the delivery to its full term. Ms. Thakur submitted that appropriate orders in the interest of justice may be passed considering the findings and opinion of the Medical Board.

7. Since the Petitioner's daughter is in the advanced stage of her pregnancy, we deemed it appropriate to interact with the doctors personally through VC. We interacted with the doctors concerned of the Medical Board through Video Conferencing. The Counsel of the Petitioner as well as the AGP were present, as was the son of the Petitioner during the interaction.

8. Dr. Pophale, Associate Professor and Head of Obstetrics and Gynecology of the Sir J.J. Hospital conveyed to us the opinion of the Board that considering the advanced stage of pregnancy and although the Board had left it to the Court to take decision based on their report, it will be in the interest of the Petitioner's daughter and the fetus that she continues the pregnancy. The fetus is almost fully grown and is likely to be born alive. The fetus will need NICU support. Although the Petitioner's daughter is fit to undergo the procedure, it will be in

the interest of both the mother and the child that the fetus is permitted to complete the full term so as to avoid the risks and hazards of pre-term birth on the Petitioner's daughter as well as the child. In any case the fetus is fully formed and the balanced term is only of approximately 4 weeks.

9. Conscious of the right of the Petitioner's daughter to reproductive freedom, her autonomy over the body and her right to choice, in this particular case we deem it appropriate to concede to the experts' opinion and having considered the findings and opinion of the Medical Board, especially during the interaction with the doctors, we deem it appropriate to refuse permission to the Petitioner's daughter to medically terminate the pregnancy. Since the term of the pregnancy is beyond 32 weeks, in any case the statute does not permit termination of pregnancy at such an advanced stage and the present circumstances also do not fall within the scope and ambit of the exceptions provided under the statute as well as the Rules made thereunder. Considering the experts' opinion, we asked Ms. Velankar to take further instructions from the Petitioner and his son, who have

heard the Doctor's opinion. After a re-think, the Petitioner and his son (the girl's brother) indicated their consent and the Petitioner's daughter's willingness to carry the pregnancy to its full term. In these circumstances, we are not inclined to exercise our discretion and powers under Article 226 of the Constitution of India to allow the Petitioner's daughter to terminate the pregnancy. Hence we pass the following order:-

10. In these facts and circumstances, we issue the following directions:

i) The Petitioner's prayer seeking permission to terminate the 32 week pregnancy of his daughter is rejected in view of the experts' opinion during their interaction with us. The Petitioner with consent of his daughter and son have indicated their willingness that the pregnancy will be taken to its full term.

ii) The Authorities of Sir J.J. Hospital state that they are ready and willing to continue the admission of the Petitioner's daughter in the said Hospital. They are also willing to look after and take care of the Petitioner's daughter for her balanced term till she

delivers the baby. We accept the said statement. We have conveyed the same to the Petitioner. Since the Petitioner's daughter is already in the Hospital, she is permitted to continue to stay in the Hospital.

iii) The Hospital shall provide post-delivery care to the Petitioner's daughter including neo-natal care for the baby, if so required. Considering that, the Petitioner's daughter 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's daughter 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's daughter and the State shall abide by the wishes as expressed at the appropriate stage.

vi) The concerned Department of State of Maharashtra is directed to expedite the disbursement of compensation, if applicable, to the Petitioner's daughter under the Manodhairya Scheme. We request the AGP to forward a copy of this order to the concerned Department forthwith so as to enable them to process the compensation formalities at the earliest.

11. The Petition is disposed of in the aforesaid terms.

12. Needless to state, that the Petitioner and/or his daughter are at liberty to move this Court for any further reliefs arising out of the present issue, if and when such need arises.

13. All concerned parties will act on the production

of the authenticated copy of this order.

(DR. NEELA GOKHALE, J.) (SANDEEP V. MARNE, J.)