



**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

(212)

CWP No. 16985 of 2025 (O&M)

Date of Decision: 10.6.2025

KXXXXXX

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Arjun Dhingra, Advocate
for the petitioner.

Mr. Anmol Malik, DAG, Haryana.

KIRTI SINGH, J. (ORAL)

1. The present petition has been filed under Article 226/227 of the Constitution of India seeking directions upon the respondents to take necessary actions to abort the pregnancy of the petitioner in view of the opinion of the Head of the Department of OBS and Gyane dated 15.5.2025 (Annexure P-3).

2. Brief facts of the present case are that on the basis of a complaint moved by the petitioner, an FIR No. 70 dated 9.5.2025 under Sections 64(1), 115, 351(3), 333, 3(5) of BNS and Section 6 of the POCSO Act, 2012 at Police Station Sadar Punhana, Nuh was registered, alleging therein that on 1.1.2023, when the petitioner was alone in her house, one Tarif entered her room and molested her. Despite her resistance, he raped her and also made a video. It is further alleged that since then the said accused had been raping the petitioner by blackmailing and threatening her to viral her video. Upon consulting a doctor for the pain in the stomach which the



petitioner had been feeling, it was found out that she was five months pregnant.

3. During the course of investigation, the statement of the petitioner under Section 180 BNSS was recorded, wherein she categorically stated that she did not want to continue with the pregnancy. On 13.3.2025, ultrasound of the petitioner was got conducted at Civil Hospital, Sector-10, Gurugram wherein it was found that the petitioner was 26 weeks 4 days pregnant. Thereafter the petitioner was produced before the Child Welfare Committee, Nuh which, after obtaining consent from the parents of the petitioner for pregnancy termination, vide letter dated 14.5.2025 (Annexure P-2), requested the Medical Superintendent, Government Medical College, Nalhar, Nuh to constitute a medical board to examine the petitioner and give its opinion with regard to termination of pregnancy of the petitioner.

4. Pursuant to the above letter, the medical board vide its opinion (Annexure P-3) opined that since the petitioner's pregnancy has crossed 24 weeks of gestational period and terminating it will defy the mandate enclosed in Medical Termination of Pregnancy Act, 1971 (for short 'the Act of 1971') and for this purpose, orders from the appropriate authority are required. Subsequently, the petitioner through an application (Annexure P-4) approached the learned trial Court concerned, for termination of her pregnancy, which was disposed of with a direction to the petitioner to approach the concerned CMO, Nuh. It is thereafter that the petitioner chose to file the present petition seeking termination of her pregnancy.

5. The learned counsel for the petitioner submits that being a rape victim, carrying the pregnancy will cause grave injury to the petitioner's mental health as is also envisioned under Section 3 of the Act of 1971. He further submits that continuing with the said pregnancy will not only cause a



social stigma but would also have a significant bearing upon the future prospects of the petitioner. However, given the advanced stage of the pregnancy, learned counsel for the petitioner submits that in the alternate, the petitioner be sent to Nari Niketan upto the delivery of the child, who the petitioner then wishes to give in adoption.

6. Learned State counsel submits that upon the registration of the FIR by the petitioner, due procedure was followed and besides carrying on the investigation against the accused person, the petitioner was also produced before the Child Welfare Committee and upon her request to terminate the pregnancy, a medical board was duly constituted report of which suggests that the fetus is of 29 weeks. He submits that every possible help is being extended to the petitioner, and that the State is willing to undertake all the necessary steps as directed by this Court.

7. Heard the learned counsel for the parties and also gone through the case file.

8. The law as contained in the Act of 1971 was encapsulated by the Hon’ble Supreme Court of India in ‘*X v. Union of India, 2023 SCC OnLine SC 1338*’ which reads as follows:-

“21. The position of law can therefore be summarized as follows:

<i>Length of the pregnancy</i>	<i>Requirements for termination</i>
<i>Up to twenty weeks</i>	<i>Opinion of one RMP in terms of Section 3(2)</i>
<i>Between twenty and twenty-four weeks</i>	<i>Opinion of two RMPs in terms of Section 3(2) read with Rule 3B.</i>
<i>Beyond twenty-four weeks</i>	<i>If the termination is required to save the life of the pregnant woman, the opinion of one RMP in terms of Section 5</i>
	<i>If there are substantial foetal abnormalities, with the approval of the Medical Board in terms of Section 3(2B) read with Rule 3A(a)(i)</i>



9. Reverting to the case in hand, upon the directions issued by this Court, while issuing notice of motion on 29.5.2025, a Medical Board was constituted by PGIMS Rohtak to find out the age of the fetus as well as the health condition of the fetus and of the mother. A perusal of the report of the medical board so constituted reveals that the gestational age of the fetus is of 29 weeks and 5 days. The fetus has crossed the age of viability and there is no congenital malformation as per the ultrasound. It was also opined that premature delivery of the patient would lead to prolong neonatal ICU stay and might be a cause of respiratory distress, feed intolerance and several other prematurity complications.

10. In view of the report of the Medical Board, and given the advanced stage of pregnancy of the petitioner, this Court is not inclined to allow the termination of the pregnancy of the petitioner. However, in view of the submissions so made by the learned counsel for the petitioner, the Superintendent of Police concerned is directed to depute an official, preferably a female, who shall take the petitioner to the Nari Niketan, Sector-26, Chandigarh, and the State is further directed to ensure her comfortable stay there right uptill her delivery. It would be for the petitioner to decide whether she wants to get her delivery conducted at any State Government hospital, in which case the State Government shall bear all the medical expenses and all other incidental charges of the delivery.

11. Furthermore, in case the petitioner desires to give the new born child in adoption, the State Government shall take necessary steps in accordance with the applicable provisions of law for facilitating such exercise.



12. Accordingly, the instant petition stand disposed of.
13. Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

10.06.2025
Gurpreet Singh

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No