HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

WRIT PETITION NO. 12210 OF 2026 (GM-RES)

BETWEEN:

SMT. ARUNA
AGED ABOUT 37 YEARS
W/O MANOHAR
BATTALAHALLI VILLAGE AND POST
MUNGANAHALLI HOBLI
CHINTHAMANI TALUK
CHIKKABALLAPUR DISTRICT - 563 123.

...PETITIONER

(BY SRI JAGADEESHA K.J, ADV.)

AND:

1. THE STATE OF KARNATAKA
DEPARTMENT OF WOMEN AND
CHILD WELFARE, VIKASA SOUDHA
DR. AMBEDKAR VEEDHI
BANGALORE-01.

2. THE DISTRICT SURGEON
NANDI MEDICAL COLLEGE AND
RESEARCH INSTITUTE, TEACHING
HOSPITAL, DEPARTMENT OF HEALTH
AND FAMILY WELFARE, CHIKKABALLAPUR
DISTRICT, CHIKKABALLAPUR - 562 101.

3. THE SUPERINTENDENT
GOVERNMENT HOME FOR GIRLS
DREEM CITY LAYOUT, OPP. INDIAN
PETROL BANK, B.B.ROAD
CHIKKABALLAPUR - 562 101.

...RESPONDENTS

(BY SMT. NAVYA SHEKAR, AGA FOR R-1;
SRI PREETHAM JUDE CORREA, ADV., FOR R-2)

Digitally signed by NAGARAJA B M
Location: HIGH COURT OF KARNATAKA

THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO DIRECT THE R-2 TO CONSIDER THE LETTER FORWARDED BY THE R-3 FOR TERMINATION OF PREGNANCY OF THE VICTIM VIDE LETTER DTD. 11.04.2026 VIDE ANNX-G.

THIS PETITION, COMING ON FOR PRLIMINAY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

ORAL ORDER

1. The present writ petition is filed under Articles 226 and 227 of the Constitution of India, seeking permission for medical termination of pregnancy of the victim, who is a minor and whose pregnancy is alleged to be the consequence of sexual assault attracting the provisions of the Protection of Children from Sexual Offences Act, 2012 (hereinafter referred to as 'the POCSO Act' for short).

2. Considering the urgency involved and the sensitive nature of the matter, this Court by order dated 16.04.2026 directed respondent No.2–Hospital to constitute a Medical Board comprising specialists in Obstetrics and Gynaecology, Paediatrics and other relevant disciplines to examine the victim and submit a report regarding:

(i) the gestational age of the foetus;

(ii) whether termination of pregnancy could be safely undertaken; and

(iii) the risks, if any, to the life and health of the victim.

3. Pursuant to the directions issued by this Court, the Medical Board has examined the victim and submitted its report dated 19.04.2026. The Medical Board has opined that the pregnancy has reached approximately 29 weeks of gestation, which is well beyond the stage of foetal viability. The Board has further opined that induction for termination at this stage would pose serious risk to the life of the mother and the baby, and therefore termination is not medically advisable.

4. The law relating to termination of pregnancy in India is governed by the Medical Termination of Pregnancy Act, 1971, as amended by the Medical Termination of Pregnancy (Amendment) Act, 2021 (for short "the Act").

5. Under Section 3 of the Act, pregnancy may ordinarily be terminated up to 20 weeks on the opinion of one

registered medical practitioner and up to 24 weeks on the opinion of two registered medical practitioners for certain categories of women, which include survivors of sexual assault and minors.

6. Section 5 of the Act provides an exception permitting termination beyond the prescribed limit only when such termination is immediately necessary to save the life of the pregnant woman.

7. In cases where pregnancy has crossed the statutory limit, constitutional Courts exercising jurisdiction under Article 226 or Article 32 of the Constitution of India, have entertained petitions seeking termination, primarily based on medical opinion regarding risk to the life or health of the pregnant woman or severe foetal abnormalities.

8. In ***X v. Union of India (2024) 12 SCC 453***, the Hon'ble Supreme Court held that Courts may permit termination beyond the statutory limit where continuation of pregnancy would endanger the life of the woman and the

medical report does not disclose any substantial foetal abnormalities.

9. **In *X v. State (NCT of Delhi)* 2025 SCC OnLine Del 2506,** the Division bench of Delhi High Court overturned a Single Judge's order allowing a 16-year-old survivor of sexual assault to terminate her 26-week pregnancy, and directed her to continue the same till 34 weeks.

10. However, the consistent thread running through the aforesaid decisions is that Courts have relied upon the opinion of competent Medical Boards while deciding whether termination can be safely undertaken. Where the Medical Board has opined that termination would pose serious risk to the life of the pregnant woman, Courts have refrained from permitting such termination.

11. In the present case, the pregnancy has advanced to 29 weeks, which is well beyond the stage of foetal viability. At this stage, the foetus is capable of survival outside the womb with appropriate neonatal care.

12. The Medical Board constituted pursuant to the directions of this Court has categorically opined that induction for termination at this stage would be dangerous to the life of the mother as well as the baby. The same is extracted which reads as under:

> *"Opinion: As baby has crossed the period of viability, induction for termination at this period of gestation is endangerous to the life of mother and baby. Hence referring to honourble court to take necessary decision for the same."*

13. In the present case, this Court has carefully examined the report and opinion furnished by the duly constituted Medical Board. The Board, after conducting a detailed medical examination of the victim and assessing the stage of pregnancy, has unequivocally opined that termination of pregnancy at the present stage would pose serious medical risks and would be medically unsafe. The expert opinion indicates that the procedure may endanger the life and health of the minor and therefore cannot be safely undertaken. When such a clear and categorical medical opinion is placed on record, this Court, while exercising jurisdiction under Article

226 of the Constitution of India, cannot disregard the expert medical assessment. In the absence of any material indicating that termination can be safely performed, this Court finds no justification to issue a direction for medical termination of pregnancy.

14. Though this Court is deeply conscious of the traumatic circumstances in which the victim has conceived, particularly in view of the alleged sexual assault attracting the provisions of the POCSO Act, the paramount consideration must be the safety and survival of the victim.

15. In view of the advanced gestational age of 29 weeks, the pregnancy has crossed the stage where termination could be medically treated as an abortion procedure. At this stage, medical intervention would essentially amount to preterm delivery, which, as per the Medical Board, carries serious risk to both the mother and the baby.

16. Therefore, this Court finds no justification to issue directions permitting termination of pregnancy contrary to the medical opinion placed on record.

17. Having regard to the peculiar facts of the case and the status of the victim as a minor survivor of sexual assault, the following directions are issued:

(i) The respondent–Hospital shall ensure that the victim receives continuous medical supervision and appropriate antenatal care until delivery.

(ii) The respondent–hospital shall take all necessary precautions to ensure safe delivery and neonatal care.

(iii) The Child Welfare Committee and District Child Protection Unit shall extend counselling, psychological assistance and rehabilitation support to the victim.

(iv) The State shall ensure that the victim is extended the benefit of compensation under the Victim Compensation Scheme and other welfare measures available under law.

(v) If the victim or her guardians express inability or unwillingness to raise the child after birth, the Child Welfare Committee shall take appropriate steps in accordance with law for care and adoption of the child.

(vi) The respondent–hospital shall preserve relevant medical evidence, if required, for the purposes of the criminal proceedings.

(vii) Learned AGA is directed to forthwith communicate this order orally to the concerned respondents.

The writ petition stands disposed off accordingly.

Sd/-
(SACHIN SHANKAR MAGADUM)
JUDGE

DN
List No.: 1 Sl No.: 49