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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\# **CNR No. DLHC010514992026**

\+ W.P.(CRL) 3365/2026

MINOR M THR HER MOTHER K .....Petitioner

Through: Mr. Anwesh Madhukar, Ms. Prachi Nirwan, Mr. Pranjal Shekhar and Ms. Diptashree Bag, Advocates.

versus

STATE (NCT OF DELHI) & ANR. .....Respondents

Through: Mr. Amol Sinha, ASC for State with Mr. Kshitiz Garg, Mr. Ashvini Kumar, Mr. Nitish Dhawan and Mr. Gourav Singh, Advocates.
S.I. Shahi Singh, P.S. Govindpuri.
Mr. V.S.R. Krishna and Mr. V. Shashank Kumar, Adv. for AIIMS.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% 29.10.2026

1. This petition under Article 226 read with Article 21 of the Constitution of India, as well as Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 [“BNSS”], seeks directions for medical termination of the pregnancy of the Petitioner, a 15-year-old minor girl stated to have an intellectual disability. The pregnancy is alleged to have resulted from sexual assault. The Petitioner has approached this Court through her mother, seeking urgent intervention as the pregnancy has progressed to 25 weeks and 5 days, beyond the 24-week gestational limit prescribed under Section 3(2)(b) of the Medical Termination of Pregnancy Act, 1971 [“MTP Act”].

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2. The brief facts, as borne out from the copy of the FIR placed on record, are that the Petitioner allegedly became acquainted with the accused, Sunil, who had previously resided as a tenant in the same house as the Petitioner and her family for approximately 10-12 years. On 17th October, 2026, the Petitioner's mother noticed that her abdomen appeared unusually enlarged. Upon asking, the Petitioner allegedly disclosed that the accused had assaulted her. On 18th October, 2026, the Petitioner was medically examined at the All India Institute of Medical Sciences ["AIIMS"]. On the same date, FIR No. 558/2026 was registered at P.S. Govind Puri, Delhi under Sections 64(2)/351(3) of the Bharatiya Nyaya Sanhita, 2023 ["BNS"] and Section 6 of the Protection of Children from Sexual Offences Act, 2012 ["POCSO"]. The medical examination conducted indicated the pregnancy at an advanced gestational stage.

3. On 21st October, 2026, the Petitioner was produced before the Child Welfare Committee ["CWC"]. The petition records that, when produced before the CWC, the Petitioner expressed her wish to undergo medical termination of pregnancy. Her mother also consented to the proposed termination, and the CWC recorded the mother's consent in its order dated 21st October, 2026. Having regard to the Petitioner's circumstances and the advanced stage of pregnancy, the CWC directed her placement at a children's home, provision of a support person and submission of reports concerning her well-being. On 24th October, 2026, the SHO Govind Puri, Delhi approached AIIMS for constitution of a Medical Board to examine the Petitioner and assess the feasibility of termination. AIIMS thereafter constituted the Medical Board *vide* order dated 26th October, 2026.

4. On 27th October, 2026, this Court directed the Medical Board of

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AIIMS to examine the Petitioner and assess her physical and mental well-being for the purpose of termination of pregnancy. The Board was specifically directed to opine whether termination could be carried out at the present stage without any threat to the Petitioner's life.

5. Pursuant to the aforesaid order, the Medical Board has examined the Petitioner at AIIMS and forwarded its report dated 28th October, 2026, which records a gestational age of 25 weeks and 5 days, as assessed by ultrasonography conducted at AIIMS, and an estimated foetal weight of 780 grams, with a variation of ±117 grams. It further records that the foetus is viable at this gestational age, with an estimated probability of neonatal survival of 40%, and that no gross congenital anomaly was detected. Significantly, the report records that, having regard to the social grounds and the Petitioner's 'mild intellectual disability', termination may be considered. The report further states that, if termination is directed and the neonate is born alive, directions would be required concerning the neonate's care and custody.

6. Mr. Anwesh Madhukar, counsel for the Petitioner, submits that the Petitioner is a 15-year-old minor whose pregnancy is alleged to have resulted from sexual assault. It is submitted that compelling her to continue the pregnancy would aggravate the physical and psychological trauma she has already suffered, particularly in view of her age and intellectual disability. Mr. Madhukar further points out that the Petitioner's mother has consented to the termination and that the Petitioner herself has expressed her wish to undergo the procedure before the CWC. Reliance is placed on the statutory framework of the MTP Act and judicial precedents recognising the jurisdiction of constitutional courts to consider requests for termination at an

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advanced stage, having regard to the circumstances of the pregnant woman and the medical opinion available. Mr. Madhukar emphasises the urgency of the relief sought, submitting that any delay would further advance the pregnancy and prolong the distress faced by the Petitioner.

7. The Petitioner's mother is present in person and affirms her consent to the medical termination of the Petitioner's pregnancy. The Petitioner also appears through Video Conferencing. During the interaction, the Court observed that perhaps because of her stated intellectual disability, the Petitioner is unable to fully comprehend her present situation. Mr. Amol Sinha, ASC for the State, and Mr. V.S.R. Krishna, counsel for AIIMS, submit that appropriate directions may be issued, having regard to the Medical Board's report and the prevailing legal position.

8. The Court has heard counsel for the parties and perused the material placed on record, including the report of the Medical Board dated 28th October, 2026.

9. The issue of medical termination of pregnancy beyond the gestational limits prescribed under the MTP Act came to be considered by the Supreme Court in ***S v. Union of India & Ors.***[1]. There, the Supreme Court permitted termination of a pregnancy at approximately 28 weeks of gestation. The Court held that, while exercising jurisdiction under Article 226 or 32 of the Constitution, the courts must prioritise the interests of the minor mother-to-be over the procedural and statutory limitations under the MTP Act and accord the highest importance to her reproductive autonomy. It reiterated that the right to make decisions concerning one's body, particularly in matters of reproduction, forms an integral facet of personal liberty and

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privacy under Article 21, and that a woman, more so a minor, ought not to be compelled to carry a pregnancy to full term against her will. The Court further held that the absence of a remedy under the MTP Act does not bar a constitutional remedy. Where the statutory remedy is unavailable, the constitutional court must weigh all the facts and circumstances from the lens of the person seeking termination, rather than mechanically defer to the statutory gestational limits. The Court also observed that neither the absence of foetal abnormality nor the advancement of gestation, by itself, furnishes a constitutionally persuasive ground to deny termination. The absence of a clinically diagnosed mental disorder also does not negate the presence of severe distress or trauma arising from an unwanted pregnancy.

10. This Court had earlier considered the position in ***Minor R Through Mother H v. State (NCT of Delhi) & Anr.***[2], where the petitioner was a minor rape survivor carrying a pregnancy of approximately 24 weeks and 5 days. The Court noted that, although the MTP Act did not provide for termination beyond 24 weeks except in cases involving substantial foetal abnormalities, the extraordinary powers of constitutional courts could be exercised to permit termination beyond the prescribed limit. It observed that denying a rape survivor the right to terminate an unwanted pregnancy and fastening upon her the responsibility of motherhood would impair her right to live with dignity under Article 21. The Court emphasised that a pregnancy resulting from sexual assault may serve as a constant reminder of the trauma suffered, causing mental agony, and that the MTP Act itself recognises the significance of the pregnant woman's mental health under Section 3(2)(i). It

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[1] SLP (C) No. 14454/2026, decided on 24th April, 2026.
[2] 2023 SCC OnLine Del 383.

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further observed that it would not be appropriate to expect a minor rape survivor to bear the burden of giving birth to and raising a child while she is herself passing through adolescence. The Court, accordingly, permitted termination in the exercise of its extraordinary jurisdiction.

11. The aforesaid principles have also informed the recent decisions of this Court. In ***Minor P Thr Her Mother A v. State & Anr.***[3], this Court permitted termination of the pregnancy of a 16-year-old rape survivor at approximately 31 weeks. The Court took note of the Medical Board's opinion that the minor was physically fit to undergo termination, notwithstanding the likelihood of the baby being born alive. In ***Minor V Thr Grand Mother M v. State of NCT of Delhi & Anr.***[4], this Court permitted termination of the pregnancy of a minor rape survivor at approximately 29 weeks. These decisions reiterate that the determination must turn on the circumstances of the individual case, including the age of the pregnant minor, the circumstances in which the pregnancy arose, the medical evidence and the rights and interests of the pregnant woman. They also demonstrate the need to frame appropriate safeguards for the procedure, preservation of evidence, neonatal care and State-funded treatment.

12. The statutory framework of the MTP Act is also relevant to the present case. Explanation 2 to Section 3(2) recognises the consequence of a pregnancy resulting from rape by providing that the anguish caused by such a pregnancy shall be presumed to constitute grave injury to the mental health of the pregnant woman. This provision assumes significance in the present case, where the pregnancy is alleged to have resulted from sexual assault

[3] W.P.(CRL.) 3287/2026, decided on 15th October, 2026.
[4] W.P.(CRL.) 3348/2026, decided on 24th October, 2026.

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against a minor. Although the pregnancy has progressed beyond the 24-week gestational limit prescribed under Section 3(2)(b), the statutory position must be considered alongside the constitutional principles governing reproductive autonomy, dignity and the welfare of a minor. As recognised in the decisions discussed above, the unavailability of a remedy under the MTP Act does not, by itself, foreclose the exercise of constitutional jurisdiction in an appropriate case.

13. Turning to the present case, the Petitioner is only 15 years old and is stated to have an intellectual disability. The pregnancy is alleged to have resulted from sexual assault, in respect of which FIR No. 558/2026 has been registered. While the petition records that the Petitioner expressed her wish to undergo medical termination of pregnancy when produced before the CWC, her mother has consented to the proposed termination and has reiterated that consent before this Court. The Petitioner's age, vulnerability and the circumstances in which the pregnancy arose warrant particular consideration. Compelling a minor in such circumstances to continue an unwanted pregnancy may aggravate her physical and psychological distress and impose upon her the burden of childbirth at an exceptionally vulnerable stage of her life.

14. The Medical Board's report dated 28th October, 2026 records a gestational age of 25 weeks and 5 days, an estimated foetal weight of 780 grams, with a variation of ±117 grams, and an estimated probability of neonatal survival of 40%. It further records that the foetus is viable, no gross congenital anomaly has been detected and termination may be considered having regard to the social circumstances and the Petitioner's 'mild intellectual disability'. The absence of a gross congenital anomaly does not,

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by itself, determine the request, which must be assessed in the context of the Petitioner's circumstances and the applicable constitutional principles. The possibility of a live birth, however, necessitates appropriate arrangements for neonatal care.

15. Accordingly, the petition is allowed. Medical termination of the Petitioner's pregnancy is permitted to be undertaken at AIIMS, subject to the following safeguards and directions:

a. AIIMS shall make the necessary arrangements for the procedure at the earliest, subject to the Petitioner's medical condition and the assessment of the treating team. The procedure shall be undertaken by competent doctors in accordance with accepted medical standards, the applicable provisions of the MTP Act, its Rules and Regulations, and the relevant medical guidelines. All necessary precautions shall be taken to safeguard the Petitioner's life and health.

b. The Medical Board and the treating team shall maintain a complete record of the procedure, including the relevant medical findings, the treatment administered, the procedure undertaken and the post-procedure care provided to the Petitioner.

c. The doctors concerned shall preserve the foetal tissue and other relevant samples, as medically appropriate, for DNA identification and other evidentiary purposes in connection with FIR No. 558/2026. The samples shall be preserved and dealt with in accordance with the applicable legal and forensic protocols, in coordination with the Investigating Officer.

d. The State shall bear all expenses necessary for the termination procedure, the Petitioner's hospitalisation, medicines, food and other necessary medical care, including any post-operative treatment.

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e. In the event the neonate is born alive, AIIMS shall provide all necessary medical care and treatment, including neonatal intensive care and incubator support, as required by the neonate's medical condition and in accordance with accepted medical standards. The Medical Superintendent, AIIMS, shall promptly inform the concerned CWC and coordinate with the State authorities to ensure appropriate care and protection of the neonate.

f. If the neonate is born alive and the Petitioner's mother or guardian expresses an inability or unwillingness to assume its care, the concerned CWC and State authorities shall take appropriate steps to ensure the neonate's care and protection, in accordance with law. Any decision concerning alternative care or adoption shall be taken only in accordance with the applicable statutory procedure.

g. The identity of the Petitioner shall be strictly protected. The State authorities, AIIMS, the Medical Board and the treating doctors shall ensure that no particulars capable of identifying the Petitioner, including her name, address, photographs or medical records, are disclosed, except where authorised or required by law.

h. The doctors and medical personnel concerned shall act in good faith and in accordance with this order, the MTP Act and the applicable medical standards. The protection available to registered medical practitioners under Section 8 of the MTP Act shall remain subject to the requirements of that provision.

16. A copy of this order be transmitted to the Medical Superintendent, AIIMS, for immediate compliance. Copies shall also be sent to the SHO, P.S. Govind Puri, the Investigating Officer concerned in FIR No. 558/2026, and the concerned CWC, for information and necessary coordination in

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accordance with the directions above.

17. The petition stands disposed of in the above terms. Pending applications, if any, also stand disposed of.

18. This order be given *dasti* under the signature of Court Master.

SANJEEV NARULA, J

OCTOBER 29, 2026/*hc*

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