



2026:CGHC:17707



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NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****WPC No. 1741 of 2026**

ABC (Minor) Through Natural Guardian XYZ

... Petitioner.**versus**

**1 - State Of Chhattisgarh Through Secretary Ministry Of Public Health And Welfare
Mahanadi Bhawan Naya Raipur District- Raipur (C.G.)**

2 - Chairman District- Medical Board Raipur District- Raipur (C.G.)

**3 - The Chief Medical Officer (C.M.H.O) Medical Board Of District- Hospital
Rajnandgaon District- Rajnandgaon (C.G.)**

**4 - Head Officer Of Department Gynaecologist (H.O.D.) Gynaic District- Hospital
Rajnandgaon District- Rajnandgaon (C.G.)**

5 - Station House Officer Police Station Dongargarh District- Rajnandgaon (C.G.)

... Respondents.**Cause title downloaded from CIS**

For Petitioner	:	Mr. Basant Dewangan, Advocate
For Respondent/State	:	Mr. Sabyasachi Choubey, GA.

(Hon'ble Shri Justice Naresh Kumar Chandravanshi)**Order on Board****17.4.2026**

1. This petition has been filed by the minor victim through her guardian, who is the victim of sexual exploitation, seeking relief for termination of pregnancy.



2. Learned counsel for the petitioner submits that the petitioner is a minor girl and she has been sexually exploited by the accused, therefore FIR bearing Crime No.150/2026 for the offence under Sections 137(2) and 64(2)(m) of the Bharatiya Nyaya Sanhita, 2023 (for short the "BNS, 2023"), and Sections 4 & 6 of the Protection of Children from Sexual Offences Act, 2013, registered at Police Station Dongargarh, Distt. Rajnandgaon. Aforesaid report has been lodged by the cousin sister of the victim. He further submits that because of the aforesaid sexual exploitation, she is carrying pregnancy of 24 weeks which has been reported by doctor in medical examination which got conducted by the police. Learned counsel further submits that the pregnancy of child may be detrimental to the life of petitioner and may also have significant physical, emotional, social and economic consequences to her. Therefore, she does not want to carry on pregnancy and deliver child, as such, she has filed instant petition seeking permission of this court for termination of her pregnancy.

3. On being report sought for by this court, a team of two doctors of District Hospital, Rajnandgaon, vide report dated 13.4.2026, has reported that the victim is carrying pregnancy of 25 weeks and one day as on 30.03.2026. They have also reported that foetus is suffering from Atrio Ventricular Septal Defect, Absent Stomach Bubble and Abnormal Abdominal Vessel Arrangement. They have further reported that the victim is fit for termination of pregnancy. However, she has to suffer physically and mentally in relation to termination of her pregnancy. Since the period of pregnancy of the victim was reported to be more



than 24 weeks, therefore, report was sought from the Medical Board.

The report has been filed by the learned State counsel today only, wherein it has been reported that;

“01. Continuing the victim's pregnancy may cause physical and mental suffering to the victim, and could also pose a threat to her life.

02. According to the victim's sonography report, the foetus shows an Atrioventricular Septal Defect in the heart, an absent stomach bubble, and an abnormal abdominal vessel arrangement. Due to these conditions, the newborn may face physical and mental abnormalities after delivery in the future.

03. Based on the congenital malformations present in the fetus as per the sonography report, the District Level Medical Board advises undergoing Medical Termination of Pregnancy (MTP).”

4. Perusal of the aforesaid medical report shows that a team of doctors/Medical Board has opined that the petitioner is carrying pregnancy of 25 weeks, but she is fit for termination of pregnancy. It has also been reported by the Medical Board that foetus is suffering from various ailments, therefore, if it is delivered, it may suffer from physical and mental problems.

5. Learned counsel for the State submits that since the minor petitioner was sexually exploited, therefore she has conceived, but she does not want to carry on her pregnancy. Therefore, it may be presumed that if permission is not granted, then it would cause grave injury to the mental health of petitioner, as such, relief sought for may be



granted to her.

6. I have heard learned counsel for the parties and perused the material available on record including medical report submitted by a team of doctors/Medical Board of District Hospital, Rajnandgaon.

7. Issue involved in the instant case is seeking permission for termination of pregnancy, which is governed by the provisions of the Medical Termination of Pregnancy Act, 1971 (henceforth referred to as "Act, 1971"). Section 3 of the Act, 1971 provides for termination of pregnancy by registered medical practitioner under the circumstances, as has been envisaged therein, which is reproduced as under :-

"3. When Pregnancies may be terminated by registered medical practitioners. – (1) Notwithstanding anything contained in the Indian Penal Code (45 of 1860), a registered medical practitioner shall not be guilty of any offence under that Code or under any other law for the time being in force, if any pregnancy is terminated by him in accordance with the provisions of this Act."

[In section 3 of the principal Act, for sub-section (2), the following sub-sections have been substituted vide Amendment Act, 2021, No. 8. of 2021]

"(2) Subject to the provisions of sub-section (4), a pregnancy may be terminated by a registered medical practitioner,—

(a) where the length of the pregnancy does not exceed twenty weeks, if such medical practitioner is, or



(b) where the length of the pregnancy exceeds twenty weeks but does not exceed twenty-four weeks in case of such category of woman as may be prescribed by rules made under this Act, if not less than two registered medical practitioners are, of the opinion, formed in good faith, that -

(i) the continuance of the pregnancy would involve a risk to the life of the pregnant woman or of grave injury to her physical or mental health; or

(ii) there is a substantial risk that if the child were born, it would suffer from any serious physical or mental abnormality.

Explanation 1.—For the purposes of clause (a), where any pregnancy occurs as a result of failure of any device or method used by any woman or her partner for the purpose of limiting the number of children or preventing pregnancy, the anguish caused by such pregnancy may be presumed to constitute a grave injury to the mental health of the pregnant woman.

Explanation 2.—For the purposes of clauses (a) and (b), where any pregnancy is alleged by the pregnant woman to have been caused by rape, the anguish caused by the pregnancy shall be presumed to constitute a grave injury to the mental health of the pregnant woman.

(2A) The norms for the registered medical practitioner whose opinion is required for termination of pregnancy at different gestational age shall be such as may be prescribed by rules made under this Act.

(2B) The provisions of sub-section (2) relating to the length of the pregnancy shall not apply to the termination of pregnancy by the medical practitioner where such termination is necessitated by the diagnosis of any of the



substantial foetal abnormalities diagnosed by a Medical Board.

(2C) Every State Government or Union territory, as the case may be, shall, by notification in the Official Gazette, constitute a Board to be called a Medical Board for the purposes of this Act to exercise such powers and functions as may be prescribed by rules made under this Act.

(2D) The Medical Board shall consist of the following, namely:—

- (a) a Gynaecologist;
- (b) a Paediatrician;
- (c) a Radiologist or Sonologist; and
- (d) such other number of members as may be notified in the Official Gazette by the State Government or Union territory, as the case may be."

(3) In determining whether the continuance of pregnancy would involve such risk of injury to the health as is mentioned in subsection (2), account may be taken to the pregnant woman's actual or reasonable foreseeable environment.

(4) (a) No pregnancy of a woman, who has not attained the age of eighteen years, or, who, having attained the age of eighteen years, is a [mentally ill person], shall be terminated except with the consent in writing of her guardian.

(b) Save as otherwise provided in clause (a), no pregnancy shall be terminated except with the consent of the pregnant woman."

8. From perusal of aforesaid provisions, it is evidently clear that it is not that termination of pregnancy is not impermissible at all, rather it is



permissible in the given circumstances as is envisaged under Section 3 of the Act, 1971. In instant case, petitioner is a minor girl, who is the victim of sexual exploitation. Therefore, she does not want to carry on her pregnancy and deliver child. Team of doctors has reported that gestational age is 26 weeks as on 01.04.2026. It has also been reported that foetus is suffering from various ailments and if it is permitted to be delivered, then it may suffer from physical and mental problems. It has also been reported by the doctor that the victim/petitioner is fit for termination of pregnancy.

9. Having considered aforesaid facts, as has been stated above, it cannot be denied that continuation of pregnancy can lead to complication at a later stage on both the counts, so far as the physical condition of the victim and also the psychological and mental condition of the foetus.

10. This Court in WPC No. 270/2018 (**Ku. Pooja Mandavi v. State of Chhattisgarh and others**) decided on 02.02.2018 in paragraph No. 23 in a similar situation allowing the writ petition has held as under:

“23. Taking into consideration the entire facts including her age (13 years) and circumstances what has been stated by the victim, her gestational age, judicial precedents, taking into consideration her adolescent pregnancy and risk involved in childbirth, medical condition of the victim / petitioner, as she is suffering anemia and sickle cell (trait), considering the fact that the fetus if allowed to born, would have a limited life span with serious handicaps, and that as per Explanation I appended to sub-section (2) of [Section 3](#) of the Act of 1971 mental agony of a rape victim (petitioner) has to be treated as a case of grave injury, particularly taking



into consideration that it is in the best interests of the victim alone which has to be kept in view and considering the provisions of [Sections 3](#) and [4](#) of the Act of 1971 and Explanation I that the termination of pregnancy is immediately necessary to save the life of a pregnant girl like the petitioner herein, in the interest of justice, it would be proper to direct that a team of five doctors shall consider the feasibility of termination of pregnancy at this gestational age. Accordingly, the writ petition is allowed.....”

11. Given the facts and circumstances of the instant case and further referring to the judgment of the Hon'ble Supreme Court in the case of "**A v. Union of India**" [2018 (14) SCC 75] and also "**Sarmishtha Chakraborty and Another v. Union of India**" [2018 (13) SCC 339] permitted termination of pregnancy at the stage where the victim was carrying pregnancy for around 26 weeks. The Hon'ble Supreme Court in the case of "**Murugan Nayakkar v. Union of India and others**" [2017 SCC Online 1092"], considering the fact that the victim of rape must be given that much of liberty and right to decide whether she should continue with the pregnancy or she should be permitted to terminate the pregnancy.

12. Recently the Hon'ble Supreme Court in the matter of "**A (Mother of X) vs. State of Maharashtra & Ors.**" [2026 LiveLaw (SC) 160] has observed that the Court cannot compel any woman, much less a minor child, to complete her pregnancy if she is otherwise not intending to do so that would be more traumatic for a minor. In the aforesaid case, the



Hon'ble Supreme Court has referred various judgments and in Para 17

following observation has been made:-

"17. In this regard we reiterate what has been observed by one of us (Nagarathna, J) in X vs. Union of India & Another, I.A. No.211690 of 2023 in M.A. No.2157 of 2023 in Writ Petition (Civil) No.1137 of 2023 dated 11.10.2023 as under:

"5. In this context, it would be necessary to reiterate the three Judge Bench Judgment of this Court in X vs. Health & Family Welfare Department, 2022 SCC OnLine SC 1321, authored by Dr. Justice D.Y. Chandrachud, presently the Chief Justice of India, of which paragraphs 99, 101 and 102 read as under:

"99. The ambit of reproductive rights is not restricted to the right of women to have or not have children. It also includes the constellation of freedoms and entitlements that enable a woman to decide freely on all matters relating to her sexual and reproductive health. Reproductive rights include the right to access education and information about contraception and sexual health, the right to decide whether and what type of contraceptives to use, the right to choose whether and when to have children, the right to choose the number of children, the right to access safe and legal abortions, and the right to reproductive healthcare. Women must also have the autonomy to make decisions concerning these rights, free from coercion or violence.

X X X

101. To this, we may add that a woman is often enmeshed in complex notions of family, community, religion, and caste. Such external societal factors affect the way a woman exercises



autonomy and control over her body, particularly in matters relating to reproductive decisions. Societal factors often find reinforcement by way of legal barriers restricting a woman's right to access abortion. The decision to have or not to have an abortion is borne out of complicated life circumstances, which only the woman can choose on her own terms without external interference or influence. Reproductive autonomy requires that every pregnant woman has the intrinsic right to choose to undergo or not to undergo abortion without any consent or authorization from a third party.

102. The right to reproductive autonomy is closely linked with the right to bodily autonomy. As the term itself suggests, bodily autonomy is the right to take decisions about one's body. The consequences of an unwanted pregnancy on a woman's body as well as her mind cannot be understated. The fetus relies on the pregnant woman's body for sustenance and nourishment until it is born. The biological process of pregnancy transforms the woman's body to permit this. The woman may experience swelling, body ache, contractions, morning sickness, and restricted mobility, to name a few of a host of side effects. Further, complications may arise which pose a risk to the life of the woman. A mere description of the side effects of a pregnancy cannot possibly do justice to the visceral image of forcing a woman to continue with an unwanted pregnancy. Therefore, the decision to carry the pregnancy to its full term or terminate it is firmly rooted in the right to bodily autonomy and decisional autonomy of the pregnant woman.

(underlining by me)"



6. Unwanted pregnancy as a result of failure in a family planning method, even during the period of Lactational Amenorrhea as in the instant case or as a result of sexual assault results in the same consequence. The pregnant lady is not interested in continuing with the pregnancy. In such a situation whether the child to be born is viable or if the child would be a healthy child are not relevant considerations. What is to be focused upon is, whether, the pregnant lady intends to give birth to a child or not. This is what has been emphasized by this Court in the aforesaid three Judge Bench decision which is binding on this Bench.

7. It may not be out of place to note that a foetus is dependent on the mother and cannot be recognized as an individual personality from that of the mother as its very existence is owed to the mother. It would be incongruous to conclude that the foetus has a separate identity from the mother and in spite of the physical or mental health of a mother being under threat, she will have to continue her pregnancy until the foetus is born which would endanger her delicate health. Such a position is contrary to Article 21 and 15(3) of the Constitution of India which recognize the right to life and liberty and particularly those of a woman. One cannot also lose sight of the fact that reproduction is unique to women and throughout her life, a woman goes through the process of menstruation, pregnancy, delivery, post-delivery phase and ultimately menopause. As stated above, right to reproductive health being a woman's human right would also include the right to an abortion. Otherwise, a woman who is forced into an unwanted pregnancy would experience physical and mental



trauma and to endure the pregnancy which may continue in the post-natal period owing to which she would have the burden of bringing up an additional child and consequently, may lose out on other opportunities in life including right to employment and contribution to the income of the family."

13. The petitioner victim of sexual exploitation herself carry stigma in her life. In facts situation of the case, if she is not permitted to terminate her pregnancy, which is result of sexual exploitation, then it would be against her liberty and right to decide whether she continues with the pregnancy or not ?

14. For the foregoing reasons, this writ petition seeking permission for medical termination of pregnancy of petitioner, is **allowed**. Petitioner victim is permitted to approach Chief Medical and Health Officer, Rajnandgaon, along with her guardian/ relative, who (CMHO, Rajnandgaon) in turn, shall ensure that pregnancy of petitioner be terminated as per provisions of the Act, 1971 after completing all the other requisite formalities required for the same and provide proper medical facilities. The Chief Medical and Health Officer, Rajnandgaon is further directed that termination of pregnancy of the petitioner be done under the supervision of at-least two doctors including Specialist Doctor in the field of Department of Gynecology following the provisions of the Act, 1971, ensuring that the DNA sample of the foetus shall also be taken and preserved for further evidence of criminal case.

15. Let this exercise be carried out without any further delay. The petitioner is directed to appear before the Chief Medical & Health



Officer, Rajnandgaon Distt. Rajnandgaon on **18.04.2026** for the aforesaid purpose. The Chief Medical & Health Officer, Rajnandgaon shall further take all necessary steps. The State Counsel is also directed to intimate the Chief Medical & Health Officer, Ranjandgaon as regard the next course of action that has to be taken.

16. It is also observed that Station House Officer of Police Station Dongargarh and Police Station Rajnandgaon shall cooperate with the Chief Medical & Health Officer, Rajnandgaon for the aforesaid purpose, if required.

17. The examination report submitted by State Counsel so far as the health condition of the petitioner, shall be made part of the record.

Certified copy as per rules.

Sd/-

(Naresh Kumar Chandravanshi)
Judge

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