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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 3717 of 2026

X D/o Y, R/o Z

... Petitioner

versus

1 - State Of Chhattisgarh Through Chief Secretary, Mantralaya, Naya Raipur Chhattisgarh

2 - Secretary Department Of Home Mantralaya, Naya Raipur, Chhattisgarh

3 - Secretary Department Of Health, Mantralaya, Naya Raipur Chhattisgarh

4 - Chief Medical Health Officer Raipur District Raipur Chhattisgarh

5 - Chairman District Medical Board District Raipur Chhattisgarh

6 - Dr. Bhimrao Ambedkar Memorial Hospital Though Its Medical Superintendent Raipur, District Raipur Chhattisgarh

7 - Superintendent Of Police Raipur, District Raipur Chhattisgarh

8 - Thana In Charge P.S. Vidhansabha Raipur, District Raipur Chhattisgarh

9 - Child Welfare Committee Through Its President Raipur, District Raipur (C.G.)

... Respondents

(Cause-title taken from Case Information System)

For Petitioner	:	Ms. Rajni Soren, Advocate
For State/Respondents	:	Mr. S.S. Choubey, Government Advocate

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Hon'ble Shri Amitendra Kishore Prasad, Judge
Order on Board

21.07.2026

1. By filing the present petition under Article 226 of the Constitution of India, the petitioner has sought appropriate directions for termination of her pregnancy, which is alleged to have occurred as a consequence of the sexual assault committed upon her. The petitioner is a victim of rape and offences punishable under the provisions of the Protection of Children from Sexual Offences Act, 2012. It is the case of the petitioner that she was subjected to sexual exploitation when she was a minor and, as a result of the said incident, she has conceived and is presently carrying the pregnancy. The petitioner has approached this Court seeking protection of her right to reproductive autonomy, bodily integrity and dignity, contending that continuation of the pregnancy would cause severe mental trauma and psychological distress to her. The petitioner has, therefore, invoked the extraordinary jurisdiction of this Court for issuance of appropriate directions to the respondent authorities to facilitate medical termination of her pregnancy in accordance with law. The petitioner has prayed for following relief(s) :-

> *"(i) Issue a writ of mandamus directing the respondents to take necessary steps to ensure the termination of the petitioner's pregnancy at the earliest;*

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(ii) Pass any other order the Hon'ble Court may deem fit in the interest of justice."

2. When the matter was taken up for hearing on 15.07.2026, this Court, after hearing learned counsel appearing for the petitioner and learned State counsel, took note of the submission that the petitioner is a victim of rape and is carrying a pregnancy alleged to have arisen out of the sexual assault committed upon her. Considering the nature of allegations, the relief sought by the petitioner and the provisions of the Medical Termination of Pregnancy Act, 1971, as amended in 2021, this Court directed the Chief Medical and Health Officer (CMHO), Raipur to constitute a Medical Board comprising a Gynecologist and other necessary specialists for examination of the petitioner. The Medical Board was directed to assess the physical and mental condition of the petitioner, the stage of pregnancy, the condition of the foetus, the medical feasibility of termination of pregnancy, the risks involved in the procedure and the consequences of continuation of the pregnancy, and to submit its report before this Court.

3. Learned State counsel submits that, in compliance with the order dated 15.07.2026 passed by this Court, the petitioner was examined by the duly constituted Medical Board under the supervision of the CMHO, Raipur, and the report thereof has been received from the concerned authorities. The said report is taken on record for consideration of the present matter.

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4. Pursuant to the order dated 15.07.2026 passed by this Court, the petitioner was examined by the Medical Board constituted by the CMHO, Raipur. The Medical Board, after conducting physical examination of the petitioner, considering the relevant medical investigations and assessing the stage of pregnancy, has submitted its report. As per the report, the petitioner is carrying a single live intrauterine pregnancy and the gestational age of the foetus has been assessed to be approximately 25 weeks and 5 days. The report further indicates that the petitioner has haemoglobin level of 8.7 gm/dL, suggestive of anaemia, and that the foetus does not disclose any gross abnormality. The Medical Board has opined that, in view of the advanced gestational age of the pregnancy and the provisions of the Medical Termination of Pregnancy Act, 1971, as amended in 2021, medical termination of pregnancy is not permissible in the present case.

5. I have heard learned counsel appearing for the parties and perused the record.

6. Before adverting to the facts of the present case and the opinion rendered by the Medical Board, it would be apposite to notice the statutory framework governing the issue of medical termination of pregnancy. The field is regulated by the Medical Termination of Pregnancy Act, 1971, as amended in 2021. The object of the enactment is to provide a legal mechanism for termination of certain pregnancies by registered medical practitioners in

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specified circumstances while safeguarding the life, physical health and mental well-being of the pregnant woman. Section 3 of the Act constitutes the substantive provision governing the circumstances and conditions under which a pregnancy may be medically terminated. The said provision delineates the situations in which a registered medical practitioner may form an opinion regarding the permissibility of termination of pregnancy, including cases where continuation of the pregnancy would involve a risk to the life of the pregnant woman or cause grave injury to her physical or mental health. The provision also recognizes special categories of women, including survivors of sexual assault, rape, incest and minors, and incorporates a statutory presumption of grave injury to mental health in such cases. Since the adjudication of the present petition revolves around the applicability of the aforesaid statutory provisions, it would be appropriate to reproduce Section 3 of the Medical Termination of Pregnancy (MTP) Act, 1971, as amended in 2021 for ready reference:

> ***"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.*
>
> *(2) Subject to the provisions of sub-section*

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(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 shall 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

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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 a

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pregnancy would involve such risk of injury to the health as is mentioned in sub-section (2), account may be taken of the pregnant woman's actual or reasonably 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."

7. In this regard, the Supreme Court in ***Suchita Srivastava and Another v Chandigarh Administration, (2009) 9 SCC 1*** has laid down the guidelines based on the principle of "best interests" theory and held that the Court is required to ascertain the course of action which would serve the best interests of the person in question. Paras 36 and 37 read thus :

"36. Courts in other common law jurisdictions have developed two distinct standards while exercising "parens patriae" jurisdiction for the purpose of making reproductive decisions on behalf of mentally retarded persons. These two standards are the "best interests" test and the "substituted judgment" test.

37. As evident from its literal description, the "best interests" test requires the Court to ascertain the course of action which would serve the best interests of the person in

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question. In the present setting this means that the Court must undertake a careful inquiry of the medical opinion on the feasibility of the pregnancy as well as social circumstances faced by the victim. It is important to note that the Court's decision should be guided by the interests of the victim alone and not those of the other stakeholders such as guardians or the society in general. It is evident that the woman in question will need care and assistance which will in turn entail some costs. However, that cannot be a ground for denying the exercise of reproductive rights."

8. The Supreme Court in the matter of ***X v Union of India and others, (2016) 14 SCC 382*** has clearly held that termination of pregnancy after 20 weeks to save life of pregnant woman (an alleged rape victim) in case of grave danger to physical and mental health of the said woman, is permissible, and observed as under :

"13. Having perused the medical report (relevant extracts whereof have been reproduced herein above), we are satisfied that a clear finding has been recorded by the Medical Board, that the risk to the petitioner of continuation of her pregnancy can gravely endanger her physical and mental health. The Medical Board has also expressed an advice that the patient should not continue with the pregnancy. In view of the findings recorded in Para 6 of the report, coupled with the

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recommendation and advice tendered by the Medical Board, we are satisfied that it is permissible to allow the petitioner to terminate her pregnancy in terms of Section 5 of the Medical Termination of Pregnancy Act, 1971. In view of the above, we grant liberty to the petitioner, if she is so advised, to terminate her pregnancy."

9. Similar proposition has been laid down by the Supreme Court in the matter of ***X and others v. Union of India and others, (2017) 3 SCC 458*** and also in the matter of ***Meera Santosh Pal and others v Union of India and others, (2017) 3 SCC 462***.

10. Further, in the matter of ***Mrs. A v Union of India and others, AIR 2017 SC 4037*** the Supreme Court has granted permission for termination of pregnancy of a woman, aged 22 years, in her 25th to 26th weeks of pregnancy holding that continuation of pregnancy can pose severe mental injury to the petitioner and no additional risk to the petitioner's life is involved if she is allowed to undergo termination of her pregnancy. Their Lordships held as under :

"6. Upon evaluation of the petitioner, the aforesaid Medical Board has concluded that her current pregnancy is of 25 to 26 weeks. The condition of the foetus is not compatible with life. The medical evidence clearly suggests that there is no point in allowing the pregnancy to run its full course since the foetus would not

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be able to survive outside the uterus without a skull.

7. Importantly, it is reported that the continuation of pregnancy can pose severe mental injury to the petitioner and no additional risk to the petitioner's life is involved if she is allowed to undergo termination of her pregnancy."

11. In the case of ***X v Union of India & others, (2016) 14 SCC 382*** the request for termination of pregnancy was in a case where the pregnancy was of more than 20 weeks. The Supreme Court has permitted termination of pregnancy in matters, where the pregnancy was more than 20 weeks.

12. Recently, the Supreme Court, in the matter of ***X v Principal Secretary, Health and Family Welfare Department, Government of NCT of Delhi and Another, (2023) 9 SCC 433*** held thus at para 127 :

"127. The object of Section 3(2)(b) of the MTP Act read with Rule 3-B is to provide for abortions between twenty and twenty-four weeks, rendered unwanted due to a change in the material circumstances of women. In view of the object, there is no rationale for excluding unmarried or single women (who face a change in their material circumstances) from the ambit of Rule 3-B. A narrow interpretation of Rule 3-B, limited only to married women, would render the provision

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discriminatory towards unmarried women and violative of Article 14 of the Constitution. Article 14 requires the State to refrain from denying to any person equality before the law or equal protection of laws. Prohibiting unmarried or single pregnant women (whose pregnancies are between twenty and twenty-four weeks) from accessing abortion while allowing married women to access them during the same period would fall foul of the spirit guiding Article 14. The law should not decide the beneficiaries of a statute based on narrow patriarchal principles about what constitutes "permissible sex", which create invidious classifications and excludes groups based on their personal circumstances. The rights of reproductive autonomy, dignity, and privacy under Article 21 give an unmarried woman the right of choice on whether or not to bear a child, on a similar footing of a married woman."

13. Very recently, the Hon'ble Supreme Court in ***A (Mother of X) v. State of Maharashtra and others, Civil Appeal no.827/2026 decided on 06.02.2026***, while dealing with the similar issue, has held as follows :-

"16. …...Ultimately, the denominator is the fact that the child to be born is not out of a wedlock and secondly, the mother to be of the child does not want to bear such a child. If the interest of the mother is to be taken note of, then her reproductive autonomy must be given sufficient emphasis. The court cannot compel any woman, much less a minor child, to complete her

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pregnancy if she is otherwise not intending to do so; that would be more traumatic for a minor such as the appellant's daughter in the instant case.

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*

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reproductive healthcare. Women must also have the autonomy to make decisions concerning these rights, free from coercion or violence.

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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

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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

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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

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additional child and consequently, may lose out on other opportunities in life including right to employment and contribution to the income of the family.

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This is not to say that in every case where there is an unwanted pregnancy, this Court or the High Courts ought to exercise its jurisdiction and order for termination. It would depend on the facts of each case.

But in this case, when the petitioner is determined to terminate her pregnancy and has completely detached herself from the fact that she would be giving birth to her child shortly, she cannot be made worse off by this Court by declining to grant her the relief she has sought and thereby forcing her to continue with pregnancy."

14. 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

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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……."

15. This Court in WPC No. 2836 of 2026 ***(XYZ and Another v. State of Chhattisgarh and others) decided on 15.06.2026*** in paragraph No. 20 in a similar situation allowing the writ petition has held as under:

"20. In the considered opinion of this Court, the facts of the present case squarely satisfy the requirements envisaged under Section 3 of the Medical Termination of Pregnancy Act, 1971, as amended in 2021. The pregnancy is within the statutorily permissible period. The victim has expressed her free and informed desire not to continue with the pregnancy. The Medical Board has opined that termination is medically feasible. The pregnancy is alleged to be the

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consequence of repeated sexual assault upon a minor girl. Therefore, the statutory presumption of grave injury to the mental health of the petitioner stands attracted and there exists no legal impediment in permitting medical termination of pregnancy."

16. 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*** (supra) and also ***Sarmishtha Chakraborthy*** (supra) 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.

17. 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 ?

18. The Hon'ble Supreme Court in the matter of ***S v. The Union of India and others*** passed in ***Civil Appeal No.6667/2026 arising out of SLP (Civil) No. 14454/2026)*** decided on ***24.04.2026*** held in paragraphs No.11.3, 14 & 14.1, reads as under:-

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"11.3. We find that in cases of unwanted pregnancy, often the decision to terminate is made beyond the statutory period prescribed under the MTP Act owing to several reasons. It is under such circumstances that Constitutional Courts must weigh the circumstances in which a case in relation to the welfare of the pregnant woman has to be considered rather than the child to be born. In fact, under certain grounds, the MTP Act itself permits termination of pregnancy which is therefore recognised in law. The Constitutional Court is approached only when the statutory remedy is not available to a party. Can the Constitutional Court then say that since the statutory remedy is not available, no constitutional remedy would be available. That, in our view, cannot be the approach. A lack of remedy under a statute does not bar a constitutional remedy. The statute codifies a part of the constitutional remedy. If a case is not covered within the four corners of a statute then, can the constitutional relief be also denied? In our view, in such circumstances, the Constitutional Court ought to weigh all facts and circumstances from the lens of the party who intends to terminate the pregnancy and is willing to undertake the medical risk, rather than compelling her to complete the pregnancy term and give birth to an unwanted child. If the pregnant woman carrying an unwanted pregnancy is compelled to continue such a pregnancy, then the constitutional rights of the pregnant woman would be breached.

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14. We may usefully refer to a three-Judge Bench judgment of this Court in X v. Health Family Welfare Department, 2022 SCC OnLine SC 1321, wherein it has been authoritatively held that a woman's right to reproductive autonomy includes the right to choose whether and when to have children, the number of children to have, and the right to access safe and legal abortion and reproductive healthcare. This Court recognized that the decision to continue or terminate a pregnancy arises out of complex and deeply personal circumstances, which only the woman herself is best placed to evaluate. Reproductive autonomy, therefore, necessarily entails that every pregnant woman has the intrinsic right to decide whether to undergo an abortion. Importantly, this Court also observed that a mere clinical description of pregnancy cannot capture the profound physical and psychological consequences of forcing a woman to carry an unwanted pregnancy to term. Consequently, the decision to either continue or terminate a pregnancy is firmly rooted in the woman's right to bodily integrity and decisional autonomy, which are integral facets of her fundamental rights under Article 21 of the Constitution.

14.1 In the context of the present case, we may refer to the decision of A (Mother of X) V. State of Maharashtra & Others in Civil Appeal No.827 of 2026, where, on similar facts, this Court had allowed medical termination of pregnancy of 30 weeks of a minor girl. In that case too, the

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pregnancy in question arose out of a consensual relationship, and much like the present case, the continuation of the pregnancy was stated to be traumatic both mentally as well as physically to the minor girl as it was an unwanted pregnancy."

19. At this stage, it would be relevant to notice that Explanation 2 appended to Section 3 of the Medical Termination of Pregnancy Act, 1971, as amended in 2021, creates a statutory presumption that where a pregnancy is alleged to have been caused by rape, the anguish caused by such pregnancy shall be presumed to constitute a grave injury to the mental health of the pregnant woman. The legislative intent underlying the said provision is clear and unambiguous. A woman who is compelled to carry a pregnancy resulting from rape is presumed in law to suffer grave mental injury. The presumption assumes even greater significance where the victim is a child or a minor, as in the present case. The trauma arising from sexual assault, coupled with the social, emotional and psychological consequences of an unwanted pregnancy, has a profound impact upon the life and future of the victim.

20. This Court cannot lose sight of the fact that petitioner was a minor when she was allegedly kidnapped and subjected to sexual exploitation. The pregnancy is not the result of a consensual relationship but is alleged to be the outcome of offences punishable under the POCSO Act. To compel such a victim to continue with the pregnancy against her wishes would amount to

subjecting her to further trauma and would seriously impinge upon her bodily integrity, dignity, privacy and reproductive autonomy, all of which are facets of the right to life guaranteed under Article 21 of the Constitution of India.

21. The victim has expressed her free and informed desire not to continue with the pregnancy. The pregnancy is alleged to be the consequence of repeated sexual assault upon a minor girl. Therefore, the statutory presumption of grave injury to the mental health of the petitioner stands attracted and there exists no legal impediment in permitting medical termination of pregnancy.

22. Having perused the material available on record, the report submitted by the Medical Board constituted pursuant to the order dated 15.07.2026 and the legal position governing the field, this Court is of the considered opinion that the present case deserves to be examined not merely on the basis of the numerical gestational age reflected in the sonography report but in the backdrop of the constitutional rights of the petitioner and the peculiar facts attending the case. The record reveals that the petitioner was subjected to sexual assault when she was a minor and, as a consequence thereof, conceived the present pregnancy. The FIR has already been registered for offences punishable under the provisions of the POCSO Act. The petitioner has consistently and unequivocally expressed her unwillingness to continue with the pregnancy and has

approached this Court seeking protection of her reproductive autonomy and bodily integrity. The pregnancy is, therefore, undeniably an unwanted pregnancy resulting from rape and continuation thereof would undoubtedly inflict grave mental trauma and psychological suffering upon the petitioner.

23. It is true that the Medical Board has opined that, as per the sonography conducted on 17.07.2026, the gestational age of the foetus is approximately 25 weeks and 5 days and, therefore, expressed the view that medical termination is not permissible under the provisions of the Medical Termination of Pregnancy Act, 1971, as amended in 2021. However, this Court cannot lose sight of the well-recognised medical principle that assessment of gestational age by ultrasonography is not mathematically exact and invariably carries a permissible margin of error. Medical science recognises that the gestational age assessed through sonography is only an estimate and may vary by approximately ±2 weeks, depending upon the stage of pregnancy, fetal growth parameters and other biological variables. Thus, the gestational age reflected in the sonography report cannot be treated as an inflexible or absolute determination so as to defeat the valuable constitutional and statutory rights of the petitioner, particularly when the pregnancy is the consequence of rape.

24. Even otherwise, the opinion rendered by the Medical Board cannot be construed as binding upon the constitutional

jurisdiction of this Court. The purpose of obtaining the opinion of the Medical Board is to assist the Court in arriving at a just conclusion regarding the medical feasibility, risks and consequences of termination. The ultimate decision, however, rests with the Constitutional Court, which is required to balance the medical opinion with the statutory framework, constitutional guarantees and the peculiar facts of each individual case. Therefore, merely because the Medical Board has expressed reservation on the ground that the gestational age exceeds twenty-four weeks, this Court is not denuded of its constitutional powers to mould the relief in an appropriate case where denial of such relief would result in grave injustice.

25. This Court also finds that the Medical Board has nowhere opined that termination of pregnancy is medically impossible or that the procedure cannot be undertaken under any circumstance. The report primarily proceeds on the footing that, according to the Board, the pregnancy has crossed twenty-four weeks and the foetus does not suffer from any gross congenital anomaly. The report further notes that the petitioner is anaemic with haemoglobin of 8.7 gm/dL, which may enhance the procedural risk. However, enhancement of medical risk is entirely different from medical impossibility. Such risks are capable of being addressed by a multidisciplinary team of experienced specialists at a tertiary care Government medical institution by adopting appropriate medical protocol, blood transfusion support, intensive

monitoring and post-operative management. Therefore, the report of the Medical Board, when read in its entirety, cannot be interpreted as creating an absolute bar against termination of pregnancy.

26. Explanation 2 appended to Section 3 of the Medical Termination of Pregnancy Act, 1971 creates a statutory presumption that where pregnancy is alleged to have been caused by rape, the anguish caused by such pregnancy shall be presumed to constitute a grave injury to the mental health of the pregnant woman. The legislative intent is explicit that a woman who has conceived as a consequence of rape should not be compelled to undergo further psychological trauma by continuation of an unwanted pregnancy. The said presumption acquires still greater significance where the victim was a minor on the date of the incident, as in the present case. Compelling such a victim to continue with the pregnancy against her wishes would amount to perpetuating the trauma already suffered by her and would seriously impair her dignity, bodily integrity and mental well-being.

27. The decisions of the Hon'ble Supreme Court in aforementioned case-laws unequivocally recognise that reproductive autonomy is an inseparable facet of the right to life and personal liberty guaranteed under Article 21 of the Constitution. The consistent view of the Supreme Court is that while considering requests for medical termination of pregnancy, the paramount consideration is

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the interest, dignity, bodily autonomy and mental health of the pregnant woman and not merely the gestational age reflected in a medical report. The Constitutional Courts are expected to adopt a purposive and humane interpretation consistent with the object of the enactment so that a victim of sexual assault is not compelled to undergo further physical and psychological suffering.

28. Applying the aforesaid principles to the facts of the present case, this Court is satisfied that the petitioner has made out an exceptional case warranting exercise of extraordinary jurisdiction under Article 226 of the Constitution of India. The pregnancy is admittedly the consequence of rape committed upon the petitioner when she was a minor. The petitioner has consistently expressed her free and informed desire not to continue with the pregnancy. The gestational age reflected in the sonography report is itself an estimated assessment carrying an accepted margin of variation of approximately ±2 weeks and cannot be treated as conclusive for denying relief in a case involving violation of fundamental rights. In the considered opinion of this Court, refusal to permit termination in the peculiar facts of the present case would result in continuing infringement of the petitioner's right to dignity, privacy, bodily autonomy and reproductive choice guaranteed under Article 21 of the Constitution.

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29. Consequently, and in order to secure the physical, mental and emotional well-being of the petitioner, who is a victim of rape and has consistently expressed her unwillingness to continue with the unwanted pregnancy, the present writ petition deserves to be and is accordingly **allowed**. Respondent No.4–Chief Medical and Health Officer, Raipur, is directed to ensure that the petitioner is admitted forthwith, preferably within 24 hours from the date of receipt of a certified copy of this order, in Dr. Bhimrao Ambedkar Memorial Hospital, Raipur, or any other Government tertiary care hospital having the requisite infrastructure and expertise for undertaking medical termination of pregnancy. The procedure shall be carried out by a duly constituted multidisciplinary team of senior medical experts, including experienced Gynaecologists, Anaesthetists, Physicians, Neonatologists and such other specialists as may be considered necessary, strictly in accordance with the provisions of the Medical Termination of Pregnancy Act, 1971, as amended, and the applicable medical protocol, while taking all necessary precautions to safeguard the life and health of the petitioner.

30. Before undertaking the procedure, the medical team shall obtain the informed written consent of the petitioner in accordance with law. The petitioner shall be apprised, in a language understood by her, of the nature of the procedure, the attendant risks, possible complications and the post-operative care required. Since the petitioner was a minor at the time of the alleged

incident and has throughout been accompanied and supported by her family, the presence of her mother/legal guardian shall also be ensured during the entire process, and necessary consent of the guardian, wherever required under law, shall also be obtained.

31. Respondent No.4–Chief Medical and Health Officer, Raipur, shall personally supervise compliance of this order and extend all necessary medical, logistical and administrative assistance to the petitioner. Considering that the Medical Board has noticed that the petitioner is suffering from anaemia with haemoglobin of 8.7 gm/dL, the hospital authorities shall first undertake all necessary pre-operative measures, including arrangement of adequate blood and blood components, availability of intensive care facilities and all emergency medical support, so as to minimise the procedural risks. The CMHO shall also ensure that necessary transportation, including ambulance facilities, is made available to the petitioner for her travel to and from the hospital, if required, and that the procedure is undertaken in a safe, dignified and expeditious manner without causing any inconvenience or hardship to her.

32. It is further directed that the petitioner shall be provided with all necessary pre-operative, operative and post-operative medical care, counselling and psychological support by the concerned hospital authorities. The identity, privacy and confidentiality of the

petitioner shall be maintained with utmost care and shall not be disclosed to any person except to the extent required by law.

33. Since Crime No. 213/2026 registered at Police Station Vidhansabha, District Raipur, for offences punishable under the provisions of the POCSO Act and other allied penal provisions is stated to be under investigation/trial, the concerned hospital authorities shall preserve the foetal tissue, placenta, blood samples, DNA samples and all other biological material strictly in accordance with the applicable medical and forensic protocols. The same shall be appropriately sealed and preserved and shall be made available to the Investigating Officer, whenever required, for the purposes of investigation.

34. A copy of this order shall be communicated forthwith to Respondent No.4–Chief Medical and Health Officer, Raipur, the Medical Superintendent, Dr. Bhimrao Ambedkar Memorial Hospital, Raipur, as well as the Superintendent of Police, Raipur, for immediate compliance. Learned State counsel shall also ensure prompt communication and implementation of this order without any delay.

35. The Chief Medical and Health Officer, Raipur, shall ensure faithful compliance of the directions contained herein and, after completion of the medical termination procedure and necessary post-operative treatment, shall submit a detailed compliance report before the Registrar (Judicial) of this Court within a period

of two weeks. The report shall indicate the date on which the petitioner was admitted, the date of the procedure, the medical condition of the petitioner before and after the procedure, the treatment and assistance extended to her, and the steps taken for preservation of forensic evidence. The Registrar (Judicial) shall place the said report before the appropriate Bench for information and further orders, if required.

36. The writ petition is, accordingly, **allowed**. There shall be no order as to costs.

37. The report submitted by the Medical Board pursuant to the order dated 15.07.2026 is taken on record. After retaining a copy thereof on the record of the case, the original sealed-cover report shall be resealed and kept in safe custody by the Registry, maintaining complete confidentiality of the identity and medical particulars of the petitioner.

Sd/-
(Amitendra Kishore Prasad)
Judge

Yogesh