

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR**

S.B. Civil Writ Petition No. 14408/2026
CNR: RJHC010662972026
URN: CW / 26285U / 2026

Xxx,

-----Petitioner

Versus

1. The State Of Rajasthan, Through The Principal Secretary, Department Of Medical And Health Services, Government Secretariat, Jaipur.
2. The Chief Medical And Health Officer, District Jodhpur.
3. The Superintendent, Dr. Sampurnanand Medical College, Jodhpur, Rajasthan.
4. The Commissioner Of Police, Jodhpur City, Rajasthan.

-----Respondents

For Petitioner(s)	:	Ms. Sapna Vaishnav
For Respondent(s)	:	Mr. N.S. Rajpurohit, AAG Dr. Shiv Prakash Paliwal Dr. Divya Gehlot

HON'BLE MR. JUSTICE SAMEER JAIN

Order

14/07/2026

1. Petitioner has filed this present petition through her natural guardian/ mother, for termination of pregnancy undergone for a gestational period of 27 weeks (plus minus five days) as per the medical report.
2. Learned counsel for the petitioner has relied upon the provisions of MTP Act. It is submitted that petitioner is a rape victim aged approximately 15 years. It is submitted that an FIR No. 237/2026 is registered at Police Station Kudi Bhagtasni, Dist.

Jodhpur (West) for the offence under Sections 65(1) of BNS, 2023 and Sections 5(j)(ii), 5(l), 5(q) and 6 of the POCSO Act.

3. Learned counsel for the petitioner has also furnished a Medical Board (constituted at Umaid Hospital, Jodhpur) opinion with the forwarded letter dated 11.07.2026, wherein following opinion is opined and the same reads as under:

"According to Ultrasound Obstetrics Miss 'P' is having pregnancy of 27 weeks 4 days. Blood investigation report shows her hemoglobin is 10.1 gm/dl, Platelets- 1.99 lac/mm³. As per USG Single live fetus of 27 weeks 4 days, fetus is viable and fetal weight is 1145 gm. & if pregnancy is terminated at this stage, the baby is likely to be born alive bearing all the consequences of prematurity & may need prolonged NICU care. The female bears the intrinsic risk of induction failure & operative interventions at this period of gestation.

*Dr. Divya Gehlot
Senior Resident
Dept. of OBGY"*

*Dr. Shiv Prakash Paliwal
Medical Officer
Dept. of Pediatrics*

*Dr. Arshad
Medical Officer
Dept. of Radiology"*

4. Learned counsel for the respondents have fairly conceded the contentions noted herein, however has submitted that the parents of the victim ought to submit an undertaking before the concerned Hospital, as per the Medical requirements, as the procedure which is now to be opted is not of termination of pregnancy but an endeavor to have a safe delivery/ pre-mature delivery.

5. Having heard the counsel representing the parties, upon carrying an interaction with the doctors present in the Court, who have cautiously averred that termination of pregnancy at this stage shall bear grave consequences upon the victim-mother as well as the unborn, as the health, and medical conditions of the

mother are to be constantly monitored (having HgB @ below 11 and fetus position as 'breech') taking note of the provisions of MTP Act, which bars termination of pregnancy above the gestational period above 20 weeks (relevant extract of which are reproduced hereinbelow), and upon a perusal of the medical opinion (placed on record) which states that the fetus as on date is approximately of 27 weeks and 4 days and the female bears an intrinsic risk of induction failure and operative interventions if termination is practiced at this period of gestation; that the petitioner herein is a rape victim, belonging to a humble background; that relying upon the ratio encapsulated in **A (Mother of X) Vs. State of Maharashtra and Anr.** reported in **2024 INSC 371, (2022) SCC Online SC 1231: "X" vs. Health and Family Welfare Department** and **A (Mother of X) Vs. State of Maharashtra and Anr.** reported in **2026 LiveLaw (SC) 160** and provisions of Article 21 of the Constitution of India and the fact that the medical opinion states of high risk in carrying out termination of pregnancy, this Court is inclined to **dispose** of the present petition, with a direction/expectation that the pregnancy at this stage is not permitted/need not to be terminated. However, the parents/guardians of the victim shall serve the requisite under taking, as it is opined that the termination of the present pregnancy might have potential risk and warrant surgical intervention, as pregnancy is 27 weeks and 4 days with breech position.

"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 (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."

6. Accordingly, this Court directs the Superintendent, Umaid Hospital, Jodhpur, Rajasthan to proceed with the procedure qua the petitioner as deemed medically necessitated, as per the provisions of MTP Act, and not to permit termination of pregnancy at this stage. Additionally, it is directed as follows:

6.1 Taking note of the fact that the state is *parens patriae*, meaning thereby parent of the country, the respondents are directed to provide the victim with all necessary care, nutritious food and medical attendance before and after the delivery.

6.2 Superintendent, Umaid Hospital, Jodhpur, Rajasthan is directed to ensure that all medical facilities are made available to the victim before and after delivery, without payment of any fee, charges or expenses of any nature and to ensure that the delivery takes place in a safe environment.

6.3 The identity of victim shall be maintained at all stages and her identity shall not be disclosed in the course of hospitalization, treatment and admission.

6.4 The Rajasthan State Legal Services Authority (RSLSA) as well as District Legal Services Authority (DLSA), concerned are

directed to pay suitable amount of compensation to the victim in terms of the provisions contained under the Rajasthan Victim Compensation Scheme, 2011, within a period of three months from the date of receipt of certified copy of this order and the amount of compensation be kept in Fixed Deposit in the name of the victim for a period of two years.

6.5 If the guardian of the victim deems it appropriate, requisite arrangements be made at the shelter home/ Balika Grah concerned for stay, accommodation of the victim, if need so arises.

6.6. Needless to say the decision of whether to give the child up for adoption is entirely that of the guardian/parents of the victim herein. It is made clear that if the petitioner herein opts for adoption for the child, the concerned Child Welfare Committee shall render due assistance.

7. In view of the above, and in view of the undertaking and submissions made by the learned counsel appearing on behalf of the petitioner/guardian (as appointed through legal aid services), the present petition is disposed of, with above noted directions. Copy of Medical Report dated 11.07.2026 is taken on record. Pending applications, if any, shall stand disposed.

(SAMEER JAIN),J