



HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 11932/2025

Victim (Minor)

-----Petitioner

Versus

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1. State of Rajasthan, Through Principal Secretary, Medical And Health Secretariat, Jaipur (Raj.)
 2. Station House Officer, Police Station Atru-Baran, Rajasthan.
 3. Investigation Officer, Police Station Atru-Baran, Rajasthan.
 4. Superintendent, Public Health Center, Police Station Atru-Baran, Rajasthan.
 5. Shaheed Rajmal Meena Rajkiya Jila Chikitsalaya, Baran, Rajasthan.
 6. Government Hospital Baran, Rajasthan.

-----Respondents

For Petitioner(s)	:	Ms. Sonia Shandilya
For Respondent(s)	:	Mr. Yash Joshi for Mr. Vigyan Shah, AAG

JUSTICE ANOOP KUMAR DHAND

Order

08/08/2025

1. Defect(s) pointed out by the Office stands waived.
2. By way of filing this writ petition, the victim is seeking permission of this Court to allow her to terminate her pregnancy, which is stated to be of 32 weeks, as per the report of Medical Board of Government District Hospital, Baran.
3. Minor victim has approached this Court stating that an FIR has been lodged by her father against the accused at the



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Police Station Atru, District Baran, wherein it has been alleged that the petitioner is a deaf and dumb girl of 17 years of age and she was subjected to rape by the accused. Upon this report, Crime No.260/2025 was registered with the Police Station for the offence under Section 64(2)(h) and (m) of BNS, 2023 and under Section 5I, 5j(ii) and 6 of the POCSO Act.

4. It is averred that the child is being conceived as a result of rape committed on the minor victim and she does not intend to give birth to such child, which would be a constant reminder to her about the atrocities committed on her. The same is stated to be not good for physical and mental health as well as social well-being of the petitioner.

5. Learned counsel for the petitioner submits that in such like situation, the Hon'ble Apex Court in the case of **A (Mother of X) vs. State of Maharashtra and Anr.** while deciding **Civil Appeal No.5194/2024** vide order dated 29.04.2024 has granted permission for termination of pregnancy, hence, the similar order be passed in the instant case as well. Counsel submits that in the said matter, pregnancy of the victim was of 30 weeks. Counsel submits that subsequently the Allahabad High Court and Gujarat High Court in the case of **AB vs. State of U.P. and Others (Writ C.No.20205/2025)** and **ABC (Victim) vs. State of Gujarat and Others (Special Criminal Application (Direction) No.7065/2025)** respectively have granted permission for termination of pregnancy, where the victim was carrying pregnancy of more than 32 weeks. Counsel submits



that under the peculiar circumstances of the case, the permission sought for be granted.

6. *Per contra*, learned counsel for the State opposed the arguments raised by counsel for the petitioner and submitted that pursuant to the order dated 05.08.2025 passed by this Court, the Medical Board of five Doctors was constituted, who have examined the victim and her pregnancy and they have submitted their report dated 06.08.2025, wherein, it has been mentioned that the age of the victim is 17 years and at present, she is carrying a pregnancy of 32 weeks. The fetus in the womb of the victim has life with heard beats and looking to the weakness and deficiency of blood in the body of the victim and looking to her low blood pressure, it would be unsafe for both the fetus and the mother, in case, the permission is granted for termination of the pregnancy and the life of the fetus as well as the mother would be in danger and in case, such permission is granted, post termination the health condition of the victim may become more critical.

7. Section 3 of the Medical Termination Act, 1971 (for short 'the MTP Act') deals with the provision of termination of pregnancy. The MTP Act is a progressive legislation which regulates the manner in which pregnancies may be terminated. Section 3 spells out certain conditions which must be satisfied before a pregnancy can be terminated. The conditions depend upon the length of the pregnancy. Where the length of the pregnancy does not exceed twenty weeks, one Registered Medical Practitioner must be of the opinion, formed in good faith that if the risk of the child is not there,





then, such permission can be granted. The maximum period which has been prescribed under Section 3 of the MTP Act is 24 weeks, wherein, permission from the Court is not required and such termination can be done by the registered practitioner looking to the overall health condition of the person seeking such termination. Where any pregnancy is alleged by the pregnant woman to have been caused by rape, the anguish caused by the pregnancy is presumed to constitute a grave injury to the mental health of the woman. The above presumption makes it evident that the MTP Act recognizes the autonomy of the pregnant woman and respects her right to choose the course of her life.

8. Where the length of the pregnancy exceeds twenty weeks but does not exceed twenty-four weeks, at least two RMPs must be of the opinion discussed in the preceding paragraph. The categories of women where a pregnancy is beyond 20 weeks and up to 24 weeks may be terminated are permitted to be prescribed by rules made by the delegate of the legislature. Rule 3B of the MTP Rules (as amended in 2021) provides grounds for the termination of a pregnancy up to twenty-four weeks. The termination may be allowed in the following cases or for the following persons:

- a. Survivors of sexual assault or rape or incest;
- b. Minors;
- c. Change of marital status during the ongoing pregnancy (widowhood and divorce);



- d. Women with physical disabilities with a major disability in terms of the criteria laid down under the Rights of Persons with Disabilities Act 2016;
- e. Mentally ill women including mental retardation;
- f. Fetal malformation that has a substantial risk of being incompatible with life or where in the event of birth, the child may suffer from physical or mental abnormalities and be seriously handicapped; and
- g. Women with pregnancy in humanitarian settings or disaster or emergency situations as may be declared by the Government.

9. In **X v. Principal Secretary, Department of Health and Family Welfare, GNCTD**, reported in **2022 SCC Online SC 1321**, the Apex Court held that the benefits of Rule 3B(c) extend equally to both single and married women and that the benefits of Rule 3B extend to all women who undergo a change in their marital circumstances.

10. In the instant case, Medical Board of five Doctors was of the opinion that the petitioner is carrying pregnancy of 32 weeks and termination of such pregnancy is not advisable. As per the opinion of the Board, it would not be safe and would be life threatening to the mother due to advance gestational age and considering the age of the minor victim and looking to overall facts and circumstances, the passage of time and delay caused in approaching this Court, which is on the part of the petitioner, has only further aggravated the said aspect. There is no material available on the record of this Court on



the basis of which this Court may differ with the opinion expressed by the Medical Board. Directing medical termination of this pregnancy, at such an advanced stage, would not only endanger life of the minor victim and would also affect the life of fetus in the womb.



11. Recently, the Hon'ble Apex Court in the case of the **X v. Union of India**, Writ Petition (Civil) No.1137/2023 refused to grant permission for termination of pregnancy, where the lady was carrying 28 weeks pregnancy and it was observed in para 25 to 28 as under:

"25. Under Article 142 of the Constitution, this Court has the power to do complete justice. However, this power may not be attracted in every case. If a medical termination were to be conducted at this stage, the doctors would be faced with a viable fetus. One of the options before this Court, which the email from AIIMS has flagged, is for it to direct the doctors to stop the heartbeat. This Court is averse to issuing a direction of this nature for the reasons recorded in the preceding paragraph. The petitioner, too, did not wish for this Court to issue such a direction. This was communicated by her to the court during the course of the hearing. In the absence of a direction to stop the heartbeat, the viable fetus would be faced with a significant risk of lifelong physical and mental disabilities. The reports submitted by the Medical Board speak for themselves.



26. For these reasons, we do not accede to the prayer for the medical termination of the pregnancy.

27. The delivery will be conducted by AIIMS at the appropriate time. The Union Government has undertaken to pay all the medical costs for the delivery and incidental to it.

28. Should the petitioner be inclined to give the child up for adoption, the Union Government has stated through the submission of the ASG that they shall ensure that this process takes place at the earliest, and in a smooth fashion. Needless to say, the decision of whether to give the child up for adoption is entirely that of the parents."

12. The judgment cited by the counsel for the petitioner in the case **A (Mother of X)** (supra) is not applicable to the facts and circumstances of the instant case looking to the opinion of the Medical Board.

13. Even recently in two cases, this Court has declined the permission for termination of pregnancy to minor victims of rape of similar age as of the petitioner and passed order for their safe delivery. The aforesaid direction has been issued in the case of **Victim Vs. State of Rajasthan and Anr.**, Civil Writ Petition No.121/2024 and in the case of **Victim Vs. State of Rajasthan and Anr.** in Civil Writ Petition No. 821/2024 decided on 17.01.2024. Hence, following the aforesaid two orders passed by this Court and the judgment





in **X. Vs. Union of India (Supra)** passed by the Hon'ble Apex Court, this Court has no valid reasons to take a different view. Looking to the advanced stage of pregnancy (32 weeks) of the petitioner, her prayer for medical termination of pregnancy cannot be accepted.

14. Considering the overall facts and circumstances of the case, instant petition stands disposed of with the following directions:-

"(i) The Superintendent of Government District Hospital, Baran is directed to ensure that all necessary medical facilities are made available to ensure that the delivery of the petitioner takes place in a safe environment.

(ii) The privacy of the petitioner and the child born shall be maintained at all stages and identity of the petitioner be not disclosed in the course of hospitalization and treatment.

(iii) The respondents are directed to admit the petitioner in Government Balika Grah, Baran and they are further directed to provide her all necessary care, nutritious food and medical assistance before and after delivery.

iv). The Superintendent, Balika Grah Baran is directed to allow the petitioner to remain there till she attains the age of majority and also provide her all facilities including education, etc. till her majority.





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(v) The child, on birth, may be handed over to the Child Welfare Committee, Baran and the petitioner shall fulfill all necessary documentation through her natural guardian and all formalities, as may be required in law for handing over the custody of the child to the Child Welfare Committee.

(vi) The Child Welfare Committee, Barna shall take care of all the needs and facilities of the child.

(vii) The petitioner would not have any objection to give the newly born child to the State Agency to be given in adoption to the willing parents in accordance with law.

viii). In case, the petitioner gives her consent for adoption of the child to the willing parents, the adoption exercise would be conducted by Central Adoption Resource Authority (CARA)/State Agency in accordance with law, after taking consent of the petitioner.

ix) The Superintendent of the Government Hospital is further directed to retain the tissue, cord and blood sample of fetus preserved for the purpose of DNA analysis by Forensic Science Laboratory (FSL) and the same to be handed over to the Investigation Agency as and when required.



x) The Rajasthan State Legal Services Authority, Jaipur (RSLSA) as well as District Legal Services Authority, Baran (DLSA) are directed to pay suitable amount of compensation to the petitioner victim as per the provisions contained under the Rajasthan Victim Compensation Scheme, 2011 to the petitioner within a period of three months from the date of receipt of certified copy of this order.”

15. With the aforesaid observations, the writ petition stands disposed of.

16. Let a copy of this order be handed over to the respective authorities concerned, as mentioned in this order under the signatures of the Court Master.

17. Let a copy of this order be also sent to the Member Secretary, RSLSA and the Secretary, DLSA, Baran and all the concerned for necessary compliance.

(ANOOP KUMAR DHAND),J

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