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WP-39404-2026

IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE SANDEEP N. BHATT

ON THE 23rd OF SEPTEMBER, 2026

WRIT PETITION No. 39404 of 2026

IN RE. SUO MOTO

Versus

STATE OF MADHYA PRADESH

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Appearance:

Shri Vijay Nagpal - Govt. Advocate for the respondent/State.
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ORDER

Heard counsel for the state.

2. Pursuant to the earlier order dated 21.09.2026 passed by this Court, the report is submitted by the Medical Board/ MTH Hospital, Indore dated 23.09.2026. The said report is taken on record.

3. It is transpired from the present petition that pregnancy of the petitioner is shown of about more than 26 weeks and as per the report dated 23.09.2026 of the concerned Medical Board which indicates that pregnancy is of 22 weeks and the Medical Board has opined that pregnancy can be terminated as the victim is found fit for termination of pregnancy.

4. Considering this report no further report is required as it has come on record that victim was examined by Medical Board and as per the opinion of Board, the termination of pregnancy is possible as the victim is found to be fit.

5. The Division Bench of this Court in W.P.No.5184/2025 (In Ref.



(suo motu) Vs. State of Madhya Pradesh and others) dated 20.02.2025 has given following directions :-

"(b) SOPs to be followed in case where the age of foetus/pregnancy of survivor of sexual assault or rape or incest is exceeding 24 Weeks:-

Whenever a case of rape is registered at any police station, the following procedure shall be adopted:-

- (i) /The SHO of the said police station, on the basis of the MLC of the victim indicating that she is pregnant and the pregnancy is more than 24 weeks, shall forthwith forward the victim to the concerned District Court, preferably Special Judge/POCSO;*
- (ii) The learned Judge of the District Court preferably Special Judge/POCSO), regardless of any application for termination of pregnancy, though not maintainable, filed before it or not, shall refer the victim to the concerned medical officer/Board to expeditiously submit its report, if the pregnancy of the victim can be terminated;*
- (iii) The District Court, preferably Special Judge/POCSO after obtaining the said medical report, under intimation to the victim and her parents, directly refer such case and report to the nearest Registry of the High Court;*
- (iv) The Registry of High Court, in turn, shall register such reference as a Writ Petition under Article 226 of the Constitution, Suo Motu, and list the matter immediately before the concerned Bench having the roster, so that appropriate orders regarding termination of pregnancy can be passed by the High Court without any undue delay;*
- (v) If directed by the High Court that termination of pregnancy is required then, the procedure of termination of pregnancy will be carried out in the*



presence of the expert team of doctors. The expert doctors will explain to the family members as well as the petitioner the risk of getting the termination of her pregnancy and also other factors;

(vi) Every care and caution will be taken by the doctors while terminating the pregnancy. All medical attention and other medical facilities including that of a presence of a Pediatrician as well as a Radiologist and other required doctors will be made available to the victim;

(vii) The post operative care, upto the extent required, will be extended to the victim;

(viii) The doctors will ensure that a sample from the fetus is protected for DNA examination and will be handed over to the prosecution for using in the criminal case.

14. Needless to mention here that nothing in the aforesaid SOPs shall be construed as to abridge or limit the power of the concerned medical officer/Board to terminate the pregnancy in the cases where the termination of pregnancy of woman is necessitated in accordance with the provisions of the Section 3(2B) and Section 5(1) or other applicable provisions of the Medical Termination of Pregnancy Act, 1971.

15. It is also directed that any forensic evidence/foetus collected in the course of termination of pregnancy must be preserved for DNA profiling or other investigative purposes in the same manner as provided under Rule 6(6) of the Protection of Children from Sexual Offences Rules, 2020.

16. It is further directed that the privacy of the victim be maintained strictly in view of statutory provisions of Section 5A of the Medical Termination of Pregnancy Act 1971."

6. It is relevant to reproduce the Section 3 (2) of the Medical Termination of Pregnancy Act, 1971 prescribes as under :

**3. When Pregnancies may be terminated by registered medical practitioners.-**

(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 twelve weeks if such medical practitioner is,

or

(b) where the length of the pregnancy exceeds twelve weeks but does not exceed twenty weeks, if not less than two registered medical practitioners are.

7. Rule 3B of the Medical Termination of Pregnancy Rules, 2003 is reproduced hereunder for the sake of reference.

3B. Women eligible for 'termination of pregnancy upto twenty-four -weeks.—

The following categories of women shall be considered eligible for termination of pregnancy under clause (b) of sub-section (2) of Section 3 of the Act, for a period of up to twenty-four weeks, namely —

(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 disability [major disability as per criteria laid down under the Rights of Persons with Disabilities Act, 2016. (49 of 2026)]

(e) mentally ill women including mental retardation;

(f) the foetal malformation that has substantial risk-of being incompatible with life or if the child is born it may suffer from such physical or mental abnormalities to be seriously handicapped; and

(g) women with pregnancy in humanitarian settings or disaster or emergency situations as may be declared by the-Government:] .

8. It is also relevant to note that in view of the judgment of Hon'ble Apex Court delivered in the case of *X Vs. Principal Secretary, Health and Family*, reported in *2023 (9) SCC 433*, para nos. 94, 101 and 114, which are reproduced as under :

94. Rule 3-B(c) states that a “change in the marital status during the ongoing pregnancy (widowhood and divorce)” renders women eligible for termination of their pregnancy under Section 3(2)(b) of the MTP Act. The impact of the continuance of an unwanted pregnancy on a woman's physical or mental health should take into consideration various social, economic, and cultural factors operating in her actual or reasonably foreseeable environment, as provided in Section 3(3). The rationale behind Rule 3-B(c) is comparable to the rationale for Rule 3-B(g) i.e. a change in a woman's material circumstances during the ongoing pregnancy.



(i) The right to reproductive autonomy

101. 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.

114. A woman can become pregnant by choice irrespective of her marital status. In case the pregnancy is wanted, it is equally shared by both the partners. However, in case of an unwanted or incidental pregnancy, the burden invariably falls on the pregnant woman affecting her mental and physical health. Article 21 of the Constitution recognises and protects the right of a woman to undergo termination of pregnancy if her mental or physical health is at stake. Importantly, it is the woman alone who has the right over her body and is the ultimate decision-maker on the question of whether she wants to undergo an abortion.

9. Considering the totality of facts and circumstances of the case and the observations as reproduced above, the permission is granted by directing the concerned doctors to perform the procedure after fresh verification about the physical as well as mental fitness of the victim and thereafter necessary procedure shall be performed by keeping in mind the guidelines given by the Hon'ble Division Bench in *W.P. No. 5184/2025(In Ref. (suo motu) Vs. State of Madhya Pradesh and Others)*.

10. Let the procedure be carried out as expeditiously as possible preferably within a day or two days from today and also keeping in mind the criminal offence is registered in the matter. Therefore, necessary procedure to preserve the DNA samples of fetus and other aspects will also be taken care of in appropriate manner so that the interest of justice will also serve accordingly.

11. With the above direction, present petition is disposed off by granting permission for termination of pregnancy. A copy of the this order be



provided to counsel for State for necessary compliance.

(SANDEEP N. BHATT)
JUDGE

akanksha