

**IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR**

*Reserved on: 18.05.2026.
Pronounced on:21.05.2026
Uploaded on:21.05.2026
Whether operative part or full
judgment has been pronounced: Full*

**WP(C) 1016/2026
CM(2659/2026)**

Minor Victim“X” ...Petitioner(s)/Appellant(s).
Aged about 14 Years through her
natural guardian/father
Mr. A.

Through: Ms. Asifa Rashid, Advocate

Vs.

1. Union Territory of Jammu and Kashmir through
Commissioner/Secretary to
Government Health and Medical
Education Department Civil
Secretariat, Srinagar-190001 ...Respondent(s).
2. Chief Medical Officer, Kulgam
CMO Office, Kulgam
District Kulgam, Jammu & Kashmir-
192231
3. Medical Superintendent, Government
Medical College/Hospital, Anantnag
Casualty Block, 2nd Floor, MMABH
Hospital Janglatmandi, Anantnag-
192101
4. Station House Officer, Police Station,
Damhal Hanjipora (D.H. Pora)
District Kulgam, Jammu & Kashmir-
192233
5. Child Welfare Committee, Kulgam
Room No. 265 & 267, 2nd Floor Mini
Secretariat (DC Office Complex)
District Kulgam, Jammu & Kashmir-
192231

Through: Mr. Faheem Nisar Shah, GA
Mr. Waseem Gul, GA

CORAM:HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE

JUDGEMENT

21.05.2026

PRAYER:

1. The petitioner through the medium of instant petition has sought the following reliefs from the Court:

- “a) Issue an appropriate writ, order or direction permitting and authorizing immediate Medical Termination of Pregnancy (MTP) of the minor victim in FIR No. 38/2026 registered at Police Station D.H. Pora, District Kulgam, notwithstanding the fact that the gestational age has exceeded the statutory limit prescribed under the Medical Termination of Pregnancy Act, 1971;*
- b) Direct respondents to constitute/arrange an appropriate Medical Board forthwith for immediate medical examination of the minor victim and for furnishing urgent medical opinion regarding safe termination of pregnancy;*
- c) Direct the concerned Government Hospital/Medical Board to undertake the termination procedure with utmost urgency, confidentiality and in accordance with law, ensuring complete medical care, counselling and post-procedure assistance to the minor victim;*
- d) Direct preservation and protection of the identity, dignity, privacy and confidentiality of the minor victim throughout the judicial proceedings, investigation and medical process;*
- e) Direct that all necessary medical expenses, treatment and post-operative care of the minor victim be borne by the State in the interest of justice and welfare of the child;*
- f) Pass any other writ, order or direction which this Hon'ble Court may deem fit, just and proper in the peculiar facts and circumstances of the case and in the interest of justice.”*

BRIEF FACTS

2. The present petition has been filed on behalf of a minor girl, aged approximately 14 years, who conceived as a direct result of sexual assault and rape. In respect of the said incident, FIR No. 0038/2026 was registered at Police Station D.H. Pora, District Kulgam, under the applicable provisions governing sexual offences. The accused has since been taken into custody and the matter is under investigation.
3. According to the medical examination and ultrasonography report, the gestational age of the pregnancy was approximately 25 weeks and 05 days at the time of filing of the instant petition, thereby exceeding the permissible statutory limit ordinarily prescribed under the Medical Termination of Pregnancy Act, 1971. The minor was produced before the Child Welfare Committee (CWC), Kulgam, which declared her a Child in Need of Care and Protection and recommended urgent legal, medical, and psychological intervention.
4. Pursuant thereto, the CWC approached the Chief Medical Officer, Kulgam. However, vide official communication dated 29.04.2026, the medical authorities informed that termination of pregnancy could not be undertaken without the permission of a competent court, as the gestational period exceeded the statutory limit.
5. In view of the foregoing, the petitioner has approached this Court seeking urgent permission for medical termination of pregnancy under Section 3 of the Medical Termination of Pregnancy Act, 1971.

SUBMISSIONS ON BEHALF OF THE PETITIONER

6. Learned counsel, Ms. Asifa Rashid, appearing on behalf of the minor victim 'X' submits that the petitioner is a minor girl aged about 14 years and the pregnancy in question is the direct consequence of sexual assault and rape, continuation whereof would cause grave injury to her physical and mental health. Forcing a child of such tender age to continue an unwanted pregnancy would amount to a serious infringement of her right to life, dignity and bodily integrity guaranteed under Article 21 of the Constitution of India.
7. It is submitted that Explanation 2 to Section 3 of the Medical Termination of Pregnancy Act, 1971 specifically recognizes that where pregnancy is alleged to have been caused by rape, the anguish caused by such pregnancy shall be presumed to constitute grave injury to the mental health of the pregnant woman. In the present case, the victim being a minor rape survivor, the presumption operates with greater force and requires immediate judicial protection.
8. It is further submitted that the parents and guardians have unequivocally expressed consent for termination of pregnancy, considering the same necessary in the best interest of the child. The continuation of pregnancy would seriously prejudice her education, rehabilitation, dignity, emotional recovery and future prospects, whereas termination would facilitate her physical and psychological restoration.
9. The learned counsel argues that the denial of termination of pregnancy in the present case would result in compelling the minor victim to undergo the trauma of childbirth and motherhood at an age where she is incapable of

understanding or bearing such responsibility, thereby adversely affecting her education, mental health, social life and overall development, and irreversibly altering the course of her life. Moreover, the delay in granting relief would further increase the gestational period and the medical risks, thereby making the termination procedure more complicated and hazardous.

10. In order to buttress her arguments, learned counsel for the petitioner also placed reliance upon a recent judgment passed by the Hon'ble Supreme Court in "**S vs. Union of India and Ors.**" in SLP No. 14454/2026, wherein the Hon'ble Apex Court had permitted medical termination of pregnancy at the gestational age of 28 weeks.

11. Heard and considered.

LEGAL ANALYSIS

12. The record reveals that this Court on 06.05.2026, having regard to the facts and circumstances of the case, deemed it appropriate to direct Director Health Services, Kashmir, and Principal, Government Medical College (GMC), Srinagar, to place the minor victim before the duly constituted Medical Board under the Medical Termination of Pregnancy Act, 1961. The Court directed that the said Board shall examine and assess the physical and mental well-being of the victim for the purpose of determining the feasibility of medical termination of pregnancy. It was further directed that the Medical Board shall further opine as to whether termination of pregnancy at that stage, which as per learned counsel for the petitioner was of approximately 26 weeks, can be safely carried out without posing any risk to the life of the minor, or whether the same is likely to result in any medical complications. While parting with

the aforesaid order, the Court directed that the identity, privacy, and confidentiality of the minor victim shall be strictly safeguarded during the pendency of these proceedings as well as throughout the medical process.

MEDICAL ASSESSMENT AND DETERMINATION OF AGE

13. Pursuant to the aforesaid order dated 6th May, 2026, the Medical Board was constituted and the report submitted by the said Board has been examined by this Court, which was later on re-sealed and taken on record.

14. In light of the opinion rendered by the Medical Board and keeping in view the identity, privacy and confidentiality of the minor victim, this Court directed the Registry to list the matter for in camera proceedings. The Director, Health Services, Kashmir; the Principal, Government Medical College, Srinagar as well as the members of the Medical Board constituted pursuant to the order dated 6th May, 2026, were requested to appear in person, so that the next course of action is formulated in the light of the report submitted by the Medical Board, which would be in the best interest of the minor victim and would also help in avoiding any medical complications.

15. The matter was taken up before this Court on 13th May, 2026 in the chambers at 1:00 PM, wherein, all the issues were discussed threadbare with the members of the Medical Board in presence of Director Health Services Kashmir and Principal Government Medical College Srinagar. In addition, counsel for both the parties were also present in chambers along with minor victim and her parents as well.

16. This Court has perused the opinion of the Medical Board, opinion particularly with respect to the reference of radiological and pediatrician assessment. As

per the Medical Board opinion, some discrepancy between the alleged age of the victim and radiological age has been pointed out, with the recommendation to constitute formal medico legal board, including a dental expert, for confirmation of the exact age of the victim-x. The opinion of the Medical Board further reflects that the discrepancy between the alleged age of the victim and clinical and radiological assessment has also been endorsed by expert of the pediatrician department GMC, Srinagar.

17.As per the recommendations of the Medical Board, further opinion about the pediatrics or medicinal consultation would be possible only after the exact determination of the age of the victim.

18.Therefore, this Court in light of the opinion of the Medical Board vide order dated 13.05.2026 deemed it appropriate to direct the Director Health Services Kashmir and Principal GMC Srinagar to carry out the radiological assessment of the victim-x in conformity with the recommendations of the Medical Board in due consultation with the Principal Dental College, Srinagar or any other expert/s which the Director Health Services/ Principal GMC Srinagar deems appropriate in the facts and circumstances of the present case.

19.Keeping in view the urgency projected in the matter, the Court further directed that the said opinion be placed before the Court in a sealed cover, so that, further course of action was formulated in the instant matter in light of the opinion of the Medico Legal Board.

20.The respondents placed their findings pertaining to the radiological assessment of the victim-X, a perusal of the material on record reveals that the Post Graduate Department of Radio Diagnosis and Imaging, in its medical

report, has opined that the age of the victim is more than 17 years and less than 18 years. Therefore, she falls within the category of a minor. Further, the Department of Oral Medicine and Radiology, Government Dental College and Hospital, Srinagar, in its report, based on clinical and radiographic examination, has also assessed the age of the victim to be approximately 16 years.

21. In view of the aforesaid medical opinions, there remains no ambiguity with regard to the age of the victim-X, and this Court proceeds on the premise that she is a minor.

PERMISSIBILITY OF MEDICAL TERMINATION OF PREGNANCY

22. The principal question that now arises for consideration before this Court is whether the prayer seeking immediate Medical Termination of Pregnancy (MTP) can be permitted in the peculiar facts and circumstances of the present case, particularly in the face of the categorical opinion rendered by the Medical Board that **termination of pregnancy at this advanced stage carries extremely high risk of medical complications and may pose a serious threat to the life and health of minor victim-X.**

23. This issue necessarily requires a careful balancing of competing considerations, namely, the right of the minor victim to seek termination of pregnancy on one hand, and the risks highlighted by the Medical Board on the other.

24. When learned counsel appearing for the petitioner was confronted whether it would be appropriate for this Court to permit termination of pregnancy despite the unequivocal opinion of the Medical Board that such termination may

seriously endanger the life of petitioner X, learned counsel placed reliance upon a recent judgment passed by the Hon'ble Supreme Court in "**S vs. Union of India and Ors.**" in SLP No. 14454/2026 decided on 24.04.2026, wherein the Hon'ble Apex Court had permitted medical termination of pregnancy at the gestational age of 28 weeks.

25. However, the reliance so placed necessitates an examination of the said judgment to ascertain whether the ratio laid down therein can be made applicable to the facts of the present case. A bare perusal of the aforesaid judgment demonstrates that the same is clearly distinguishable on facts from the present case. In **S vs. Union of India and Ors.** supra, the Medical Board itself had specifically opined that the minor girl was physically fit to undergo medical termination of pregnancy, however, position of the minor victim-X in the instant matter is not the same. For facility of reference, the relevant extract of the judgment is reproduced hereinbelow:

"The report of Medical Board itself considers the minor girl physically fit for termination of pregnancy. That coupled with her own willingness to have the termination undertaken, as also the potential harm in the event of carrying the pregnancy to term, convinces us that the request for termination of pregnancy could not have been denied by the High Court.

In the circumstances, we direct that the appellant's daughter is permitted to undergo medical termination of pregnancy. The appellant, on behalf of her minor child, shall furnish an undertaking consenting to the medical termination of pregnancy of her minor daughter."

26. In the instant case, the Medical Board has opined in clear and unequivocal terms that if the Minor Victim X is allowed to terminate the pregnancy, it would entail risk to her health including multiple blood transfusions and secondary infertility as a long term sequel. For the facility of reference, the relevant part of Medical Board's opinion is reproduced as under:

“Keeping in view advanced gestational age, the following will be the medical /Obstetric risks to the mother if pregnancy is terminated:

Prolonged and failed induction.

Need for operative interventions like Hysterectomy, postpartum hemorrhage, operative vaginal delivery, puerperal sepsis, need for intensive care and multiple blood transfusions and secondary infertility as a long terms sequel.

For the baby-iatrogenic prematurity respiratory distress syndrome, interventricular hemorrhage, need for mechanical ventilation sepsis, long terms co-morbidities of prematurity and neonatal/intrauterine demise.”

27. This Court is of the considered opinion that the judgment relied upon by the learned counsel for the petitioner does not advance the case of the petitioner, being clearly distinguishable on facts. In the present case, the Medical Board has unequivocally opined that termination of pregnancy at this advanced stage, of approximately 27 weeks, would pose serious risks to the life and health of the minor victim, including grave obstetric complications and long-term consequences. A comparative reading of the aforesaid observations with the facts of the present case makes it evident that the foundational medical opinion in both cases stands on a materially different footing.

28. This Court cannot, in exercise of its writ jurisdiction, disregard or sit in appeal over the expert medical opinion rendered by a duly constituted Medical Board, particularly when the same indicates a threat to the life of the petitioner. The paramount consideration in such cases has to be the preservation of life and the minimization of risk to the health of the minor.

29. It would be appropriate to refer to a recent case titled **A (Mother of X) vs. State of Maharashtra and Ors. in Civil Appeal No. 827/2026** decided on 06.02.2026 in which the Hon’ble Supreme Court held that the Apex Court or the High Court is not obliged to exercise its jurisdiction and order for

termination in every case where there is unwanted pregnancy and it would depend upon the facts and circumstances of each case. The relevant part of the judgment supra is reproduced as under:

“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.”

30. There exists a consistent line of judicial precedents rendered by various High Courts, wherein the Courts have declined to exercise writ jurisdiction to permit termination of pregnancy in circumstances, where the Medical Board has opined that such termination would pose a serious threat to the life or health of the rape victim.

31. In the similar facts and circumstances of the case, Hon’ble High Court of Karnataka in case titled as **Ms. X vs. State of Karnataka in WPC no. 9387** decided on 26.03.2026 declined permission for termination of pregnancy of a rape victim, primarily on the ground that the Medical Board had categorically opined that induction for termination at the relevant stage would be hazardous to the life of the pregnant woman. For facility of reference, the relevant extract of the judgment is reproduced hereinbelow:

“However, the consistent thread running through the aforesaid decisions is that Courts have relied upon the opinion of competent Medical Boards while deciding whether termination can be safely undertaken. Where the Medical Board has opined that termination would pose serious risk to the life of the pregnant woman, Courts have refrained from permitting such termination.

In the present case, the pregnancy has advanced to 30 weeks, which is well beyond the stage of foetal viability. At this stage, the foetus is capable of survival outside the womb with appropriate neonatal care.

The Medical Board constituted pursuant to the directions of this Court has categorically opined that induction for termination at

this stage would be dangerous to the life of the baby. The same is extracted which reads as under:

“As patient has already crossed 30 weeks +3 days +3 weeks of gestation, she can be allowed to continue till terms so that baby maturity will be completed and the prematurity of the new born and associated complications can be avoided. Planning the delivery now or at term will not alter the maternal outcome.”

In view of the opinion expressed by the Board, this Court is of the view that medical termination as pleaded in the captioned petition cannot be acceded to.”

32. In view of the foregoing discussion, this Court is of the considered opinion that the prayer seeking permission for medical termination of pregnancy at this advanced stage (of approximately 27 weeks) cannot be granted in the peculiar facts and circumstances of the present case. The opinion rendered by the duly constituted Medical Board assumes immense significance and deserves due weightage, particularly when the same unequivocally records that the proposed termination at this stage of gestation involves grave and substantial risks to the life and future reproductive health of the victim-X.

PRIMACY OF LIFE AND MEDICAL OPINION

33. This Court is conscious of the trauma, emotional distress and psychological agony which the victim may be undergoing on account of the pregnancy in question. Equally, this Court is not oblivious to the fact that the pregnancy is alleged to have arisen under distressing circumstances. However, while exercising extraordinary jurisdiction under Article 226 of the Constitution of India, the paramount consideration before this Court has to be the preservation and protection of the life of the pregnant minor herself. The constitutional guarantee under Article 21 of the Constitution encompasses not merely reproductive autonomy but also the right to life and survival of the pregnant woman. Once the expert body in the form of Medical Board duly constituted has opined that termination at the present stage poses a serious and imminent

threat to the life of the victim-X, this Court cannot ignore or brush aside such expert medical opinion merely on sympathetic considerations.

34. The jurisdiction of this Court, though wide, cannot be exercised in a manner contrary to settled medical opinion particularly in matters involving complex medical questions. Courts are not expected to substitute their own views over the opinion of specialists and super specialists who are equipped to assess the medical feasibility, safety and consequences of such procedures. The Medical Board in the present case comprises experts from various disciplines who, after conducting thorough clinical, radiological and pediatric assessment, have unanimously opined that termination at this stage carries severe medical /Obstetric risks to the mother if pregnancy is terminated including prolonged and failed induction, need for operative interventions like hysterectomy, postpartum hemorrhage, operative vaginal delivery, puerperal sepsis, need for intensive care and multiple blood transfusions and secondary infertility as a long terms sequel.

35. This Court cannot lose sight of the fact that once the pregnancy has advanced to such an extent where the fetus has attained substantial viability, the procedure for termination itself becomes medically complicated and risk-prone. The greater the gestational age, the higher the medical complications associated with induced termination. The Medical Board has specifically warned that the proposed termination may result in irreversible consequences affecting not only the physical well-being of the victim but also her future reproductive capacity. The possibility of hysterectomy, excessive hemorrhage and other life-threatening complications cannot be lightly ignored by this Court.

36. The argument advanced on behalf of the petitioner that continuation of pregnancy would cause mental trauma to the victim has been duly considered by this Court. However, the same has to be balanced against the equally compelling concern regarding the preservation of her life and physical health. The right to seek termination cannot be construed as an absolute right divorced from medical realities and expert assessment. Once the competent Medical Board has opined against termination due to serious danger to the life of the victim, the Court would be acting contrary to medical prudence if it still directs termination of pregnancy.

37. This Court is also mindful of the legal position that the Medical Termination of Pregnancy Act, 1971, as amended, though beneficial and progressive in nature, still recognizes and gives due weightage to the medical opinion while permitting termination beyond the prescribed gestational limits. The legislative intent behind requiring opinion of medical experts is to ensure that the health and life of the pregnant woman are not jeopardized. Thus, the opinion of the Medical Board cannot be rendered redundant or treated as a mere formality.

38. In the present case, the Medical Board has not merely expressed a vague apprehension but has categorically recorded the existence of substantial and grave risks associated with termination. The Court would be failing in its constitutional duty if it ignores such opinion and permits a procedure which may ultimately endanger the life of the victim herself. The constitutional courts are guardians of life and liberty and cannot pass orders which may potentially expose an individual to irreversible medical consequences.

39. This Court is further of the opinion that directing termination contrary to expert medical advice may itself expose the doctors and medical professionals to grave ethical and legal complications. The medical practitioners cannot be compelled to undertake a procedure which according to their considered professional assessment may result in catastrophic consequences for the patient.

40. This Court is also conscious of the fact that the pregnancy in the present case has crossed a substantially advanced stage. At such stage, the distinction between termination and premature delivery becomes medically narrow and legally sensitive. The fetus at this stage has attained significant development and viability. The Medical Board has specifically indicated the possibility of severe medical /Obstetric risks to the mother if pregnancy is terminated including prolonged and failed induction, need for operative interventions like hysterectomy, postpartum hemorrhage, operative vaginal delivery, puerperal sepsis, need for intensive care and multiple blood transfusions and secondary infertility as a long terms sequel. These aspects also cannot be ignored while considering the prayer of the petitioner.

41. It needs to be emphasized that sympathy alone cannot be a ground for issuance of directions by a constitutional court when the same may potentially endanger the life of the person concerned. Judicial discretion must operate within the framework of medical science, statutory safeguards and constitutional limitations. This Court, while deeply empathizing with the victim, cannot exercise jurisdiction in a manner which may expose her to life-threatening complications.

42. The Court also deems it appropriate to observe that the role of this Court in such sensitive matters is not adversarial but protective in nature. The endeavour of the Court has throughout remained to ensure the welfare, dignity, privacy and best interests of the victim-X. It was for this reason that repeated medical assessments were directed and the proceedings were conducted in camera so as to preserve confidentiality and dignity of the victim. However, after receipt of categorical medical opinion warning against termination, this Court cannot shut its eyes to the possible fatal consequences of such procedure.

43. The doctrine of *parens patriae* also obligates the Court to adopt a course which best secures the life and welfare of the victim. Where two competing interests arise, namely the psychological trauma associated with continuation of pregnancy and the imminent medical danger associated with termination, the Court is duty bound to prioritize preservation of life. The right to life under Article 21 occupies the highest pedestal amongst constitutional values and any direction which may directly imperil life cannot ordinarily be issued.

44. This Court also cannot ignore the possibility that if termination is permitted and unforeseen complications arise leading to irreversible consequences or loss of life, the same would amount to failure of constitutional duty to protect life. The Court is therefore required to exercise utmost restraint and caution while dealing with such matters involving medical complexities and high-risk procedures.

45. Having regard to the aforesaid facts and circumstances, coupled with the categorical opinion rendered by the Medical Board, this Court is not inclined

to permit medical termination of pregnancy of victim-X at this advanced stage of gestation.

WELFARE AND REHABILITATION OF THE VICTIM

46. While declining the prayer for medical termination of pregnancy, this Court cannot be unmindful of the paramount consideration of safeguarding the overall welfare, dignity, rehabilitation and future well-being of Minor Victim “X” as well as the prospective child. The trauma suffered by a victim of sexual assault does not abate with the mere adjudication of a prayer for termination; rather, it calls for sustained institutional support in the form of care, protection, confidentiality and rehabilitation, so as to enable the victim to reintegrate into society with dignity and without fear, stigma or neglect. The constitutional mandate under Article 21 of the Constitution of India is not confined to the preservation of life in its barest form, but extends to securing the right to health, privacy, dignity, medical care and humane treatment.

47. In this backdrop, the statutory framework of the Juvenile Justice (Care and Protection of Children) Act, 2015 assumes considerable significance. The said enactment has been brought into force with the avowed object of providing a comprehensive and child-centric legal mechanism for the care, protection, development, treatment and rehabilitation of children who are either in conflict with law or in need of care and protection. The Act thus envisages a structured and coordinated institutional response to ensure that such children are afforded necessary support, protection and opportunities for reintegration in a manner consistent with the principle of their best interests. For the facility of reference the objective of the said Act is reproduced as under:

“An Act to consolidate and amend the law relating to children alleged and found to be in conflict with law and children in need of care and protection by catering to their basic needs through proper care, protection, development, treatment, social re-integration, by adopting a child-friendly approach in the adjudication and disposal of matters in the best interest of children and for their rehabilitation through processes provided, and institutions and bodies established, herein under and for matters connected therewith or incidental thereto”

48. A bare perusal of the statutory framework reveals that the Act makes a clear distinction between a “child in conflict with law” and a “child in need of care and protection”. The definition of the latter category, as contained in Section 2(14) of the Act, is of wide amplitude and includes within its fold children who are victims of abuse, exploitation or any form of physical or mental trauma. A minor victim of sexual assault, such as in the present case, unmistakably falls within the said category and is, therefore, entitled to the protective umbrella of the statute. For the facility of reference section 2(14) is reproduced as under:

(14) “child in need of care and protection” means a child—

(i) who is found without any home or settled place of abode and without any ostensible means of subsistence; or

(ii) who is found working in contravention of 2 [the provisions of this Act or] labour laws for the time being in force or is found begging, or living on the street; or

(iii) who resides with a person (whether a guardian of the child or not) and such person— (a) has injured, exploited, abused or neglected the child or has violated any other law for the time being in force meant for the protection of child; or

(b) has threatened to kill, injure, exploit or abuse the child and there is a reasonable likelihood of the threat being carried out; or

(c) has killed, abused, neglected or exploited some other child or children and there is a reasonable likelihood of the child in question being killed, abused, exploited or neglected by that person ; or

(iv) who is mentally ill or mentally or physically challenged or suffering from terminal or incurable disease, having no one to support or look after or having parents or guardians unfit to take care, if found so by the Board or the Committee; or

(v) who has a parent or guardian and such parent or guardian is found to be unfit or incapacitated, by the Committee or the Board, to care for and protect the safety and well-being of the child; or 1

[(vi) who does not have parents and no one is willing to take care of and protect or who is abandoned or surrendered;]

(vii) who is missing or run away child, or whose parents cannot be found after making reasonable inquiry in such manner as may be prescribed; or

(viii) who has been or is being or is likely to be abused, tortured or exploited for the purpose of sexual abuse or illegal acts; or

(ix) who is found vulnerable and 2 [has been or is being or is likely to be] inducted into drug abuse or trafficking; or

(x) who is being or is likely to be abused for unconscionable gains; or

(xi) who is victim of or affected by any armed conflict, civil unrest or natural calamity; or (xii) who is at imminent risk of marriage before

attaining the age of marriage and whose parents, family members, guardian and any other persons are likely to be responsible for solemnisation of such marriage;”

49. Furthermore, the Juvenile Justice (Care and Protection of Children) Act, 2015 envisages the constitution of the Child Welfare Committee (CWC), which is vested with the primary responsibility of dealing with children in need of care and protection and mandates prompt and appropriate intervention in such cases. The Committee is, inter alia, entrusted with the duty of taking necessary measures for the care, protection and rehabilitation of children who are victims of sexual abuse and are produced before it by the Special Juvenile Police Unit or the local police, as the case may be, in accordance with the provisions of the Protection of Children from Sexual Offences Act, 2012.

50. The Act also makes provision for the rehabilitation of children who are abandoned, surrendered or otherwise in need of care and protection. In terms of Section 38 of the Act, the Child Welfare Committee is empowered to

declare a child legally free for adoption, after due inquiry, in respect of orphaned, abandoned or surrendered children. In cases where a child is born to a victim of sexual assault and is subsequently surrendered, the procedure prescribed under the Act and the rules framed thereunder is required to be followed. Upon completion of such procedure, and subject to satisfaction of the statutory requirements, the Child Welfare Committee may declare such child legally free for adoption in accordance with law. For the facility of reference section 38 is reproduced as under:

“38. Procedure for declaring a child legally free for adoption.—

(1) In case of orphan and abandoned child, the Committee shall make all efforts for tracing the parents or guardians of the child and on completion of such inquiry, if it is established that the child is either an orphan having no one to take care, or abandoned, the Committee shall declare the child legally free for adoption:

Provided that such declaration shall be made within a period of two months from the date of production of the child, for children who are up to two years of age and within four months for children above two years of age:

Provided further that notwithstanding anything contained in this regard in any other law for the time being in force, no first information report shall be registered against any biological parent in the process of inquiry relating to an abandoned or surrendered child under this Act.

(2) In case of surrendered child, the institution where the child has been placed by the Committee on an application for surrender, shall bring the case before the Committee immediately on completion of the period specified in section 35, for declaring the child legally free for adoption.

(3) Notwithstanding anything contained in any other law for the time being in force, a child of a mentally retarded parents or a unwanted child of victim of sexual assault, such child may be declared free for adoption by the Committee, by following the procedure under this Act.

(4) The decision to declare an orphan, abandoned or surrendered child as legally free for adoption shall be taken by at least three members of the Committee.”

51.It is, thus, evident that the Juvenile Justice Act, 2015 has been structured keeping in view situations where children are exposed to grave vulnerability and trauma, and seeks to provide a coordinated institutional mechanism for their protection and rehabilitation.

52.It is in view of the aforesaid statutory scheme that this Court deemed it appropriate to direct the respondents to take all necessary and coordinated measures to secure the welfare, care, protection and rehabilitation of Minor Victim “X”, and to ensure that all steps are undertaken in the best interest of minor Victim “X” and prospective child in accordance with the mandate of the Juvenile Justice (Care and Protection of Children) Act, 2015.

53.In furtherance thereof, the Government LallaDed Hospital, Srinagar, has undertaken to provide the following facilities and support to Minor Victim “X”:

- a) That the Medical Superintendent, LallaDed Hospital, will act as the Nodal Officer for coordinating all medical treatment, delivery-related procedures, investigations, medicines and allied healthcare requirements of the victim.*
- b) That all necessary medical facilities, including pre-delivery and post-delivery care, regular medical check-ups, hospitalization, medicines, disposables, laboratory investigations, dietary requirements and delivery-related procedures, shall be provided free of cost to the victim.*
- c) That the concerned Senior Superintendent of Police (SSP) shall provide requisite security and protection to the victim, wherever required.*
- d) That the hospital authorities shall maintain complete confidentiality and secrecy regarding the identity and medical condition of the victim.*

- e) That hospital shall ensure proper post-delivery care, counselling and medical supervision of the victim.*
- f) That hospital authorities shall furnish timely status reports before this Court regarding the progress of the pregnancy, delivery and post-delivery health condition of the victim.*

54. So far as matters relating to adoption, registration and other statutory formalities are concerned, the Nodal Officer, Directorate of Mission Vatsalya, J&K, vide communication dated 20.05.2026, has requested the District Child Protection Officer, Kulgam, that appropriate measures with regard to medical care and other related facilities pre-post delivery shall be taken for minor victim-X. In addition it has also been directed by the Nodal Officer, Directorate of Mission Vatsalya, J&K that all legal formalities for adoption, registration and care of the newborn may be taken in consultation with Specialized Adoption Agency (SAA) and child welfare committee concerned.

CONCLUSION:

55. In view of the foregoing, the writ petition is dismissed insofar as it seeks permission for medical termination of pregnancy. However, all assurances and undertakings extended by the Medical Superintendent, Government Lalla Ded Hospital, Srinagar, and the Nodal Officer, Directorate of Mission Vatsalya, J&K, as mentioned hereinabove, with regard to the medical care, protection, confidentiality and overall welfare of Minor Victim "X" and the prospective newborn, shall be strictly adhered to and implemented by the concerned authorities.

56. The Medical Superintendent, Lalla Ded Hospital, Srinagar; the Nodal Officer, Directorate of Mission Vatsalya, J&K; and the Senior Superintendent of

Police (SSP) Kulgam and Srinagar shall file monthly compliance reports before the Registry of this Court, detailing the steps taken in furtherance of the directions issued herein, including the medical condition, care provided, and overall welfare of Minor Victim “X” and the prospective child.

57. The medical reports submitted by the Medical Board constituted pursuant to the directions of this Court, shall form part of the file.

58. **Disposed of** along with all connected applications, if any.

SRINAGAR:
21-05-2026
Mubashir

(Wasim Sadiq Nargal)
Judge

- I. Whether the judgment is speaking: Yes/No
- II. Whether the judgment is reportable: Yes/No