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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

CNR No. DLHC010424582026

+ **W.P.(CRL) 2763/2026**

MINOR S THR HER GUARDIAN B

.....Petitioner

Through: Mr. Anwesh Madhukar, (DHCLSC),
Ms. Prachi Nirwan, Mr. Diptasree
Bag, Advs. along with grandfather of
the petitioner

versus

STATE GOVT. OF NCT OF DELHI AND ANR.Respondents

Through: Ms. Rupali Bandhopadhyaya, ASC with
Mr. Abhijeet Kumar and Ms. Amisha
Gupta, Advs.

CORAM:

HON'BLE MS. JUSTICE MADHU JAIN

ORDER

08.09.2026

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1. This hearing has been done through hybrid mode.
2. The Court is once again faced with another unfortunate and distressing case of a 15-year-old child, a victim of rape, who, by way of the present writ petition, seeks permission for medical termination of her pregnancy, which has exceeded 30 weeks of gestation.
3. Intervention of this Court has been sought for termination of the pregnancy, since the current gestational age of the Petitioner is beyond the permissible limits prescribed under the Medical Termination of Pregnancy Act, 1971, as amended by the Medical Termination of Pregnancy (Amendment) Act, 2021 (hereinafter, the "MTP Act"). As per the Medical Board Report dated 07.09.2026, the Petitioner is approximately 30 weeks and



5 days pregnant.

4. The Petitioner is a minor and a victim of rape. It is the case of the Petitioner that during the winter season of 2025-2026, she had gone to Village Sarkata, District Almora, Uttarakhand, for grazing goats. The accused, who had also come to the said place for grazing goats, allegedly approached the Petitioner and forcibly subjected her to sexual assault. It is further alleged that the accused covered her mouth to prevent her from raising an alarm and threatened her with death in case she disclosed the incident to anyone. As a consequence of the alleged sexual assault, the Petitioner became pregnant.

5. The incident was reported to the police on 03.09.2026, whereafter the statement of the Petitioner was recorded and **FIR No. 01/2026** was registered at Police Station Tilak Marg under Sections 64(1)/137(2) of the Bharatiya Nyaya Sanhita, 2023 read with Section 6 of the Protection of Children from Sexual Offences Act, 2012. The Petitioner was also medically examined and her MLC was prepared by Respondent No. 2 Hospital.

6. Thereafter, the Petitioner was produced before the Child Welfare Committee, New Delhi District, where she expressed her desire for medical termination of her pregnancy. The Child Welfare Committee directed that necessary assistance be provided to her in this regard.

7. On 07.09.2026, the Petitioner was examined by the Medical Board constituted at Lady Hardinge Medical College and Smt. S.K. Hospital. The Medical Board, upon examination, reported that the Petitioner was approximately 30 weeks and 5 days pregnant. The relevant portion is reproduced hereinbelow:



FORM D

(See sub-clause (ii) of clause (b) of rule 3A)

Report of the Medical Board for Pregnancy Termination Beyond 24 weeks

Details of the woman seeking termination of pregnancy:

1. Name of the woman: MLC 141/OSC
2. Age: 154/F
3. Registration/Case Number: 20760261632
4. Available reports and investigations:

S.No	Report	Opinion on the findings
1)	ABC	Hb: 13.5 Tlc: 16240 Rbc: 1.86L
2)	Blood Group	B pos

5. Additional Investigations (if done).

S.No	Investigations done	Key findings
1)	SUP CA ⊕ 30wks	
	Pl: Antel lt lateral extension	
	MLL	

6. Opinion by Medical Board for termination of pregnancy:

- a) Allowed ? As pregnancy is more than 30 weeks (advanced) & no GRAS
- b) Denied } congenital anomaly has been

Justification for the decision: detected on Ultrasound decision for termination of pregnancy is beyond jurisdiction of medical board. The baby in this case is likely to be born alive & it will be a preterm birth with associated complications of prematurity.

7. Physical fitness of the woman for the termination of pregnancy:

- a. Yes
- b. No

Decision for termination may be taken by the Members of the Medical Board who reviewed the case: Honourable Court

S.No	Name	Signature
1)	DR. RATNA BILWAS (HOD, Dir. Paed)	
2)	DR. POOSA ARBEY (HOD, Dir. Paed, Dept of Radio)	
3)	DR. MANISHA KUMAR (Dir. Paed, Dept of Obst & Gynaec)	
4)	DR. SHILPI NAIN (Paed, Dept Obst & Gynaec)	
5)	(Asst Paed, Dept of Neonatology)	

Date and Time: 7/9/26 9:30am

Purpose: Form for submitting the report by the Medical Board for pregnancy termination beyond 24 weeks in cases of substantial foetal abnormalities.

8. In view of the advanced gestational age of the pregnancy, the Petitioner



has approached this Court seeking appropriate directions for medical termination of the pregnancy. The Petitioner, through her guardian, submits that continuation of the pregnancy would cause grave mental injury and trauma to her, particularly in view of her young age and the circumstances in which the pregnancy was caused.

9. Upon being produced before the Child Welfare Committee after the Medical Board examination, the Petitioner was directed to approach the Delhi High Court Legal Services Committee for the purposes of filing the present writ petition. Consequently, the present petition has been instituted seeking intervention of this Court and appropriate directions for medical termination of the pregnancy.

10. Learned counsel for the Petitioner submits that the Petitioner is a 15-year-old minor survivor of rape and is presently approximately 30 weeks and 5 days pregnant, as per the Medical Board Report.

11. Learned counsel for the Petitioner submits that continuation of the pregnancy would cause grave physical and psychological trauma to the Petitioner and, considering the advanced gestational age, the matter is extremely urgent and requires immediate intervention of this Hon'ble Court.

12. Learned counsel for the Petitioner submits that this Court as well as the Hon'ble Supreme Court have, in appropriate cases, permitted medical termination of pregnancy even beyond the statutory gestational limit, particularly where the pregnancy has resulted from rape and continuation thereof would cause grave injury to the survivor.

13. Learned counsel for the Petitioner submits that the Petitioner is entitled to protection of her rights under Article 21 of the Constitution of India, including her right to dignity, bodily autonomy and reproductive choice.



14. Learned counsel for the Petitioner places reliance on the following judgments:

- i. ***Mrs. X v. GNCTD & Anr., 2022:DHC:005344***, decided by this Court on 06.12.2022, wherein medical termination was permitted at 33 weeks of gestation;
- ii. ***S v. Union of India & Ors., SLP(C) No. 14454/2026***, decided by the Hon'ble Supreme Court on 24.04.2026, concerning a pregnancy of 27 weeks;
- iii. ***Venkatalakshmi v. State of Karnataka & Ors., Civil Appeal No. 15378/2017***, decided by the Hon'ble Supreme Court on 21.09.2017, concerning a pregnancy of 26 weeks;
- iv. ***Minor S (Thr. Father B) v. State & Anr., 2025:DHC:2710***, decided by this Court on 17.04.2025, concerning pregnancy exceeding 27 weeks; and
- v. ***Minor R (Thr. Mother H) v. State (NCT of Delhi), 2023 SCC OnLine Del 383***, decided by this Court on 25.01.2023, concerning a pregnancy of 24 weeks and a few days.

15. Heard learned counsel for the parties and perused the material placed on record, including the Medical Board Report dated 07.09.2026.

16. At the outset, this Court is conscious that the present pregnancy is of approximately 30 weeks and 5 days. Under Section 3 of the MTP Act, termination of pregnancy beyond 20 weeks and up to 24 weeks is permissible in respect of specified categories of women, subject to the statutory requirements. The categories eligible for termination of pregnancy up to 24 weeks have been prescribed under Rule 3B of the Medical Termination of Pregnancy Rules, 2003, as amended by the Medical Termination of Pregnancy (Amendment) Rules, 2021, and include, inter alia, survivors of sexual assault or rape or incest and minors.



17. Rule 3B of the Medical Termination of Pregnancy Rules, 2003 reads as under:

“3B. Women eligible for termination of pregnancy up to twenty-four weeks.—

The following categories of women shall be considered eligible for termination of pregnancy under clause (b) of sub-section (2) 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 disabilities [major disability as per criteria laid down under the Rights of Persons with Disabilities Act, 2016 (49 of 2016)];

(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.”

18. Thus, the present case, where the Petitioner is approximately 30 weeks and 5 days pregnant, falls beyond the ordinary statutory limit prescribed under the MTP Act. The question before this Court, therefore, is whether, in the peculiar facts and circumstances of the present case, this Court ought to exercise its extraordinary jurisdiction under Article 226 of the Constitution of India and permit termination of the pregnancy.

19. The fact that the pregnancy has crossed the statutory limit, by itself, cannot be viewed in isolation. This Court, while exercising its constitutional jurisdiction, is required to consider the peculiar circumstances of the case and



the fundamental rights of the minor Petitioner, including her right to dignity, bodily autonomy, reproductive choice and physical and mental well-being.

20. In cases arising out of sexual assault, compelling a survivor to continue with a pregnancy resulting from the assault and thereby fastening upon her the responsibility of motherhood against her will would amount to a serious impairment of her right to live with dignity. A woman's right in relation to her own body necessarily includes the right to decide whether or not she wishes to become a mother. To compel a survivor of sexual assault to carry and deliver a child conceived as a consequence of the alleged assault may subject her to further and enduring physical and psychological trauma.

21. It is well settled that, while exercising jurisdiction under Articles 226 or 32 of the Constitution of India, the Court must give due primacy to the best interests and welfare of the minor mother-to-be, while simultaneously considering the statutory framework under the MTP Act. Where the welfare and well-being of the pregnant woman or minor are under consideration, her reproductive autonomy, dignity and bodily integrity assume significant importance, particularly having regard to the peculiar facts and circumstances of each case. (*Reference: S. v. The Union of India & Ors., SLP(C) No. 14454/2026*, decided on 24.04.2026)

22. In the present case, the Petitioner is a 15-year-old child and a survivor of rape. The pregnancy is stated to be a consequence of the sexual assault committed upon her. The age of the Petitioner, the circumstances in which the pregnancy has occurred, the advanced gestational age and the grave physical and psychological consequences which continuation of the pregnancy may entail are all relevant considerations before this Court



23. In this regard, reliance may also be placed upon the judgment of the Apex Court in ***S. v. The Union of India & Ors., SLP(C) No. 14454/2026***, decided on 24.04.2026, wherein the Hon'ble Supreme Court, while considering the question of termination of pregnancy of a minor beyond the statutory period prescribed under the MTP Act, observed as under:

“11. The Court must, while exercising jurisdiction under Article 226 or Article 32 of the Constitution of India, therefore, prioritize the best interests of the minor mother-to-be in the present case, over the procedural and statutory limitations under the MTP Act. If the interest and welfare of the mother-to-be are to be given due consideration, her reproductive autonomy must be accorded the highest importance. This is particularly having regard to the facts and circumstances of the present case.

11.1. The right to make decisions concerning one's body, particularly in matters of reproduction, is an integral facet of personal liberty and privacy under Article 21 of the Constitution of India. This right cannot be rendered ineffective by imposing unreasonable restrictions, especially in cases involving minors and unwanted pregnancies, such as in the instant case.

11.2. No court ought to compel any woman and more so a minor child, to carry a pregnancy to full term against her express will. Such compulsion would not only disregard her decisional autonomy but could also inflict grave mental, emotional and physical trauma in case she is compelled to give birth.

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.

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.”

15. Thus, what is relevant is whether the pregnant woman intends to give birth to a child or not.

15.1. Keeping that in view, when Constitutional Courts are approached by unintended mothers seeking termination of pregnancy, they ought not take a prohibitory approach.

15.3. ...Secondly, the passage of time does not extinguish the right to make reproductive choices.

15.4. Constitutional courts cannot overlook that parties approach them in such hard cases precisely because no effective statutory right remains available. The absence of a legal remedy under the MTP Act is the very reason for the court’s jurisdiction being invoked in the first instance. Therefore, to defer mechanically to statutory limitations is to disregard the distinct role of the Constitutional Court in protecting individual rights even when no other statutory remedies exist.

24. A Coordinate Bench of this Court, in ***Minor R (Thr. Mother H) v. State (NCT of Delhi) & Anr., 2023:DHC:000570***, in similar circumstances, permitted medical termination of pregnancy of a minor rape survivor, who was carrying a pregnancy of approximately 24 weeks and 5 days, in exercise



of the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India. The relevant portion is reproduced hereinbelow:

10. Under similar circumstances, the Hon'ble Apex Court in Venkatalakshmi v. State of Karnataka, Civil Appeal 15378/2017, dated 21.09.2017, as well as Co-ordinate Benches of this Court in Ms X through Her Legal Guardian v. Government of NCT of Delhi & Anr., 2022 SCC OnLine Del 2642 and in Surekha Gautam Khobragade v. State of NCT of Delhi Through Department of Health and Family Welfare, W.P. (Crl.) 69/2021, dated 18.01.2021 had also allowed termination of pregnancies of more than 24 weeks in cases of rape victims.

11. Though the statute does not provide for termination of pregnancies over the gestational age of 24 weeks except in case of detection of substantial foetal abnormalities, the provision in regard to which is Section 3(2B) of MTP Act, the extraordinary powers of the Constitutional Courts, however, have been recognized even by the Hon'ble Supreme Court of India and exercised several times by the High Courts to allow termination of pregnancies even in cases where pregnancy has exceeded the limit of 24 weeks.

12. In the case of sexual assault, denying a woman right to say no to medical termination of pregnancy and fasten her with responsibility of motherhood would amount to denying her human right to live with dignity as she has a right in relation to her body which includes saying Yes or No to being a mother. Section 3(2) of the MTP Act reiterates that right of a woman. To force the victim to give birth to child of a man who sexually assaulted would result in unexplainable miseries.

25. Having regard to the aforesaid legal position and the peculiar facts of



the present case, this Court is of the considered view that the statutory gestational limit under the MTP Act cannot, in the facts of the present case, operate as an absolute bar to the exercise of the constitutional jurisdiction of this Court. The Petitioner is a 15-year-old child, the pregnancy is alleged to have resulted from sexual assault, and she has expressed her desire for termination. The advanced gestational age, while requiring heightened medical caution, cannot by itself deprive the Petitioner of consideration of her right to bodily autonomy, dignity and reproductive choice. At the same time, any medical procedure must necessarily remain subject to an assessment of her physical fitness and medical feasibility and to all requisite safeguards.

26. Therefore, considering the aforesaid facts and circumstances of the case, particularly the fact that the Petitioner is a 15-year-old minor survivor of rape and is presently carrying a pregnancy of approximately 30 weeks and 5 days, this Court is inclined to pass the following directions:

- i. The competent authority of Lady Hardinge Medical College & Smt. S.K. Hospital, New Delhi, shall make all necessary arrangements for medical termination of the pregnancy of the Petitioner at the earliest, subject to the Petitioner being found physically fit to undergo the procedure by the treating doctors/Medical Board, and subject to all necessary medical precautions and procedures.
- ii. The Superintendent, Lady Hardinge Medical College & Smt. S.K. Hospital, New Delhi, and the Medical Board shall ensure that the procedure is undertaken by competent doctors, in accordance with the provisions of the MTP Act, the Rules framed thereunder



and all other applicable rules, regulations and medical guidelines;

iii. A complete record of the procedure undertaken for termination of the pregnancy shall be maintained by the Medical Board and the hospital authorities;

iv. The doctors concerned shall preserve the tissue/foetal material, as may be medically feasible and permissible, for the purposes of DNA identification and other purposes in connection with the criminal case registered in relation to the sexual assault;

v. The State shall bear all expenses necessary for the medical termination of the pregnancy, including the expenses towards the procedure, medicines, investigations, hospitalisation, food and other incidental medical requirements of the Petitioner;

vi. In the event that the child is born alive despite the medical procedure, the Superintendent, Lady Hardinge Medical College & Smt. S.K. Hospital, New Delhi, shall ensure that all reasonable and medically feasible measures are undertaken to provide necessary medical care to such child, and the concerned Child Welfare Committee shall take all further necessary steps in accordance with law;

vii. The identity of the Petitioner shall be kept strictly confidential and shall not be disclosed in any manner contrary to law.

27. The aforesaid directions shall be complied with expeditiously, keeping in view the advanced gestational age of the pregnancy.



28. Before parting with the present case, this Court is constrained to observe that cases such as the present one leave an indelible sense of anguish. The Petitioner is a child of merely 15 years of age, who has already been subjected to the trauma of a heinous sexual assault and, to add to her vulnerability, has lost both her parents. At an age when a child ought to be protected, nurtured and allowed to grow in safety and dignity, she has instead been compelled to confront circumstances which no child should ever have to face.

29. This Court is conscious that, in the present proceedings, the Petitioner is before it with an advanced pregnancy. Yet, this Court cannot lose sight of the fact that she is, first and foremost, a child and a survivor of rape. The pregnancy is a consequence of the crime allegedly committed against her; it cannot become the measure by which her childhood is viewed. A child of 15 years cannot, in the eyes of this Court, be reduced to the description of a “mother” merely because she has been forced into pregnancy as a consequence of sexual violence.

30. The Court is also mindful that the loss of both parents makes the circumstances of the Petitioner all the more difficult. The law may provide remedies and procedures, but no order of a Court can undo the trauma that a child has endured. What the Court can, however, do is ensure that, at a moment of such profound vulnerability, the child is met not with further hardship, but with care, dignity, compassion and the protection of the law.

31. This Court hopes that the Petitioner is provided every possible support, care and protection so that she may, notwithstanding the circumstances that have been thrust upon her, have an opportunity to reclaim the childhood and dignity which no child should ever be deprived of.



32. The petition is disposed of in above said terms. Pending application(s), if any, also stands disposed of.
33. A copy of this order be given *Dasti*.
34. The order be uploaded on the website *forthwith*.

MADHU JAIN, J

SEPTEMBER 8, 2026/ys/RM