

**Court No. - 32**

**Case :-** WRIT - C No. - 32785 of 2023

**Petitioner :-** Abc

**Respondent :-** State Of U.P. And 2 Others

**Counsel for Petitioner :-** Sadrul Islam Jafri, Ambreen Masroor, Sr. Advocate

**Counsel for Respondent :-** CSC

**Hon'ble Salil Kumar Rai, J.**

**Hon'ble Surendra Singh-I, J.**

1. Heard Sri N.I.Jafri, learned Senior Counsel assisted by Sri Sadrul Islam Jafri, learned counsel for the petitioner and the Standing Counsel representing the State respondents.
2. The petition involves medical termination of pregnancy of a 25 years old girl and according to the medical report, the foetus, at present, is of 21 weeks and five days. In the circumstances, we find the case to be urgent and therefore we have proceeded to decide the writ petition without calling for a counter affidavit from the State respondents. The material available on record is sufficient to decide the writ petition on merits.
3. In view of the urgency of the matter, we proceed to pass the operative portion of the order today itself and reasons supporting the order shall be given later.
4. The petitioner is a victim of an offence under Section 376 IPC as a consequence of which she became pregnant. When the petitioner was pregnant for 20 weeks, the present petition was filed praying to allow the petitioner to undergo medical termination of her pregnancy as permissible under the Medical Termination of Pregnancy Act, 1971 (hereinafter referred to as 'the Act, 1971'). The mental anguish that the petitioner would suffer in case she is not allowed to terminate the pregnancy has been narrated in the writ petition and does not require elaboration in the present order.
5. When the matter come up before this Court on 25.09.2023, the Court directed the Chief Medical Officer Ghaziabad to constitute a Medical Board to examine the petitioner on 26th September, 2023 and submit a report to this Court today by 10.00 a.m. The report has been sent in a sealed cover and has been perused by us.
6. A perusal of the report indicates that the petitioner may undergo termination of pregnancy provided the petitioner and her parents are ready for the potential risks involved in any surgical intervention for termination of pregnancy and are also ready to arrange blood, in case blood transfusion may be required. The different reports of the petitioner have also been annexed with the report of the Chief Medical Officer. The report indicates that the pregnancy of the petitioner is 21 weeks and five days.
7. As noted earlier, the pregnancy is the result of an offence committed on the petitioner and by virtue of Explanation 2 to Section 3 (2) of the the Act, 1971 the anguish caused to the petitioner by the pregnancy would be presumed to

constitute a grave injury to the mental health of the petitioner and therefore under Section 3 (2) the petitioner is entitled for termination of pregnancy under the Act, 1971.

8. The petitioner is permitted to undergo medical termination of her pregnancy. The petitioner along with her parents shall be present before the Chief Medical Officer Ghaziabad on 29th September, 2023 at 10.00 a.m. The Chief Medical Officer shall ensure that the pregnancy of the petitioner is medically terminated by a team of qualified Gynaecologist and Obstetrician and other necessary medical practitioners, at the earliest and after taking the consent of the petitioner and after fulfilling the other legal formalities as required under the relevant statutes. The exercise regarding termination of pregnancy shall be carried out in any hospital referred in Section 4 of the Act, 1971 and with due care and caution.

9. The Chief Medical Officer shall also ensure that the petitioner is provided post operative care and medical facility free of cost.

10. The DNA sample of the foetus shall also be preserved for further evidence in the criminal case registered as a result of the offence committed on the petitioner.

11. The District Magistrate Ghaziabad shall also ensure compliance of the present order.

12. The Chief Medical Officer and the District Magistrate shall send a report by the next date fixed in the case.

13. The Registrar Compliance shall send a copy of this order to the District Magistrate and the Chief Medical Officer Ghaziabad within 24 hours from today.

14. At this stage, it is noted that the name of the petitioner and her identity has been disclosed in the body of the writ petition and consequently, on the official website of this Court. The Court could not notice the aforesaid fact on the previous date when the case was heard, i.e., on 25th September, 2023 and, therefore, the office could not be directed to correct the records on the website of this Court concealing the identity of the petitioner. The office is directed to correct the computer records of the case by concealing the identity of the petitioner and on the title of the writ petition, the name of the petitioner shall be shown as 'ABC'. All orders or documents issued from the office, certified or photo-copies, to any person shall also conceal the name and identity of the petitioner and shall refer her as 'ABC'.

15. However, as the changes in the official records may take some time and as the identity of the petitioner is already known to the District Magistrate and the Chief Medical Officer, Ghaziabad, therefore, the Registrar (Compliance) shall send a copy of this order to the aforesaid Officers after concealing the name of the petitioner by use of whitener on the title of the writ petition and noting the name of the petitioner by pen as 'ABC' within 24 hours as directed above and the Registrar shall not wait for correction of records as directed above.

16. It is also directed that the changes in the official records shall not be delayed because no corresponding changes could be made in the writ petition and the counsel for the petitioner may be asked afterwards to make the necessary changes as noted above.

17. Certified copy of the order shall be given to the petitioner on payment of usual charges and after changes are made in the official website of the Court as directed above.

18. Put up again on **5.10.2023** at 10:00 a.m for further hearing.

**Order Date :- 27.9.2023**

Pratima

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**Counsel for Petitioner :-** Sadrul Islam Jafri, Ambreen Masroor, Sr. Advocate

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**Hon'ble Salil Kumar Rai, J.**

**Hon'ble Surendra Singh-I, J.**

1. The uploaded order dated 25.09.2023 is directed to be deleted and shall be substituted by the order of the same date to be uploaded in its place with identity of petitioner masked. The physical copy of the order available on the order-sheet of the case has been suo-moto corrected by us today so as to conceal the identity of the victim/petitioner.

2. Certified copy issued or any other copy taken out from the net shall stand cancelled/nullified.

**Order Date :-** 27.9.2023

Pratima