

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/SPECIAL CRIMINAL APPLICATION NO. 3029 of 2023

=====
versus
STATE OF GUJARAT
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Appearance:

MR PV PATADIYA(5924) for the Applicant(s) No. 1
MS JIRGA JHAVERI, APP for the Respondent(s) No. 1
RULE NOT RECD BACK for the Respondent(s) No. 2,3
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CORAM:HONOURABLE MR. JUSTICE SAMIR J. DAVE

Date : 10/03/2023

ORAL ORDER

Present petition is filed by the petitioner-mother of the victim with a prayer to direct the respondent authority to terminate the pregnancy of the victim who is aged 26 years and 10 months, at the earliest, as the same being in the best interest of the victim considering her physical health and incident of rape causing grave injury to her mental health. It is further prayed in the petition to direct respondent no.3 to hand over, in scientific manner, the tissues drawn from the fetus for DNA identification of the Police Inspector, Manjalpur Police Station, Vadodara City for onward transmission of the same to the concerned Forensic Science Laboratory.

In support of the case, learned advocate for the applicant has also relied upon order of this Court (Coram:Vipul M. Pancholi, J.) dated 11/06/2021 passed in

Special Criminal Application No.5201 of 2021 wherein the Court has allowed the termination of pregnancy, considering facts of the said case, observing relevant citations and considering the principles of the relevant act of the case.

Report dated 09/03/2023 from the Department of Obst. & Gynec., Medical College, SSG Hospital, Baroda is taken on record.

It is specifically mentioned by the doctors in the said report dated 09/03/2023 that the victim has been examined by the panel of doctors and she is carrying pregnancy of 25 to 26 weeks according to ultrasound done on 23/02/2023. She has been examined by the gynecologist, physician and psychiatric on 23/02/2023 and accordingly, it is opined that the victim is mentally and physically fit to undergo medical termination of pregnancy and victim and her relatives have been explained about procedure related risk. However, considering the mental status of the victim, medical termination of pregnancy will be beneficial for her. Even if after medical termination of pregnancy, if child is born alive, it may need prolonged NICU Care. Since her pregnancy has exceeded 24 weeks, final order for termination of pregnancy will be given by respected High Court.

It is also observed in the report dated 09/03/2023 that according to Indian Medical Association guidelines, age of viability has been deemed to be 28 weeks of gestation or 1000 grams, both of which are not satisfied in the above mentioned

case. Hence, it can be stated that chances of survival of fetus are extremely low.

In view of aforesaid, present petition is allowed. Medical termination of pregnancy, as prayed for by the petitioner in the present petition, is permitted.

Present application stands disposed of. Rule is made absolute to the aforesaid extent.

Direct service today is permitted.

(SAMIR J. DAVE,J)

ILA