

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CRIMINAL APPLICATION (DIRECTION) NO. 7065 of 2025**

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ABC (VICTIM)
Versus
STATE OF GUJARAT & ORS.

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Appearance:

MR PV PATADIYA(5924) for the Applicant(s) No. 1

DS AFF.NOT FILED (N) for the Respondent(s) No. 2,3

MS MEGHA CHITALIYA, PUBLIC PROSECUTOR for the Respondent(s) No.

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CORAM:HONOURABLE MR. JUSTICE NIRZAR S. DESAI**Date : 12/05/2025****ORAL ORDER**

1. Heard, learned Advocate, Mr. Patadia, appearing for the applicant and learned Advocate, Ms. Chitaliya, for the Respondent-State.

2. This matter pertains to Medical Termination of Pregnancy (in brief, 'MTP') of a girl, who is only 13 years of age. The Coordinate Bench of this Court passed following order on 08.05.2025;

“1. This petition is filed under Article 226 of the Constitution of India, in which, the petitioner has prayed for the following reliefs:

“7(A) This Hon’ble Court may be pleased to admit and

allow the present petition;

(B) This Hon'ble Court may be pleased to quash and set aside the order dt.06.05.2025 passed in Cr.M.A. No.1463 of 2025 by Ld. Special Judge (POCSO Court) & 4th Addl. Sessions Judge, Rajkot (annexure-C) and allow the present petition.

(C) This Hon'ble Court may be pleased to issue appropriate writ or order or direction to the respondent authority to terminate the pregnancy of the petitioner, who is aged 13 years, at the earliest, as the same being in the best interest of the victim, considering her very young age, physical health and incident of rape causing grave injury to her mental health and further be pleased to direct the respondent no.3 to hand over, in scientific manner, the tissues drawn from the fetus for DNA identification to the Police Inspector, B-Division Police Station, Rajkot City for onward transmission of the same to the concerned Forensic Science Laboratory, interest of justice;

(D) Pending admission hearing and final disposal of this petition, be pleased to direct the respondents to conduct medical termination of pregnancy of the minor victim with two qualified surgeons including Gynecologist, Obstetrician and in presence of qualified

physician with due care and precaution after carrying out necessary medical check-up, so as to avoid any likelihood of untoward harm to the physical or mental health of the minor victim, in the interest of justice; (E) Any other and further relief/s which may be deemed fit by this Hon'ble Court be granted."

2. The present petitioner is a victim of rape case registered vide FIR No.11208051250359 of 2025 dated 29.04.2025 with 'B' Division Police Station, Rajkot City for the offence punishable under Section 351(3), 64(2)(m), 65(1) of B.N.S. and under sections 12, 4, 6 and 8 of the POCSO Act.

3. By way of the present petition, the petitioner has prayed for termination of pregnancy which is of 31 weeks and 05 days as per the report given by the Doctor. Learned APP, after taking instructions, submitted that in this type of case the facility is available at Shri Pandit Dindayal Upathyaya General Hospital, Rajkot and if the victim approaches to the said hospital, she will be examined there accordingly.

4. In view of the aforesaid, the applicant shall go to Shri Pandit Dindayal Upathyaya General Hospital, Rajkot on 09.05.2025 at about 10:00 a.m. along with three persons, which may include parents of the victim for medical examination. The senior expert Doctors at Shri Pandit Dindayal Upathyaya General Hospital, Rajkot are directed

to examine the victim for termination of pregnancy of victim and about the risk factor. Moreover, Doctors shall mention the stage and medical position of the victim girl and shall clarify whether termination of pregnancy of victim girl could be performed or not with detailed reasons. The Medical Officer shall report to this Court about the above respect through learned APP on or before 12.05.2025. The Medical Officer shall examine the victim and in turn, shall intimate in detail about the condition and stage of pregnancy with the opinion regarding the termination of pregnancy of victim girl to the learned APP. The learned APP shall in turn apprise the Court about the same.

5. Learned APP is directed to intimate the concerned doctors in this regard along with this order. Learned advocate for the applicant is directed to send copy of this order to the concerned authorities including the doctors and the police authority.

Issue Notice to the respondents, returnable on 12.05.2025. Learned Additional Public Prosecutor waives service of notice for and on behalf of the respondent -State of Gujarat.

Direct service today is permitted.

Registry to provide a copy of this order to the learned advocate for the petitioner as well as learned Additional

Public Prosecutor. "

3. Today, pursuant to the aforesaid order, learned APP, Ms. Chitaliya, tendered a report dated 10.05.2025, along with a forwarding letter from Medical Superintendent of P.D.U. Hospital, Rajkot, which indicates that the victim was examined on 10.05.2025, at 10:00 a.m., by Gynecologist, Physician, Psychiatrist, Pediatrician and Radiologist. The medical opinion dated 10.05.2025, which does not mention the name of the victim girl, reads as under;

"1. As per Physician victim have HB level of 9.0 gm% and having moderate anemia. So evaluation and correction of anemia required at present. considering her age and anemia factor victim is high risk for termination of pregnancy at present. However, MTP can be done with due high cardiorespiratory risk after correction of anemia.

2. As per pediatrician victim have gestational age 33 weeks and expected fetal weight is 1.99 kg with young maternal age and anemia termination of pregnancy can lead to fetal complication like prematurity, requirement of Neonatal Intensive Care Unit admission for respiratory distress, anemia, septicemia, and long term sequela of prematurity.

3. As per radiologist victim have average gestational age of 32 weeks 6 days dated on 09/05/2025.

4. As per Psychiatric clinically victim have mild intellectual disability and termination of pregnancy is advisable.

5. As per gynecologist victim have very young age and have 32 weeks and 6 days as per ultrasonography report dated 09/05/2025 by radiology department of PDU Medical college. And victim have 9 cm of HB. Suggestive of moderate anemia. So continuation of pregnancy at this age lead to complication like pre-eclampsia, eclampsia, anemia, premature delivery, caesarian delivery and complication of caesarian delivery like hemorrhage, septicemia, wound infection, post-partum hemorrhage and related complication of anesthesia and possibility of maternal death as per SRS bulletin 2021 volume 56 risk of maternal death is 53 out of 1 lakh live birth in Gujarat. Termination of pregnancy at this stage might lead to failure of induction of labor/delivery, cesarean delivery and its complication like hemorrhage, septicemia, wound infection, post-partum hemorrhage and related complication of anesthesia. Termination of pregnancy could be done after correction of anemia with above mentioned due high risk with consent of legal guardian.

After considering all factor related to very young age of victim advance gestational age and medical condition like moderate anemia and mental condition and low IQ level, continuation of pregnancy will further increases risk of

mother. Termination of pregnancy can be done after evaluation and correction of anemia with due high risk of complication of victim related to termination of pregnancy as mentioned above and fatal complication of prematurity after consents of legal guardian."

4. The aforesaid medical opinion indicates that the panel of doctors have opined that the MTP can be done after evaluation and correction of anemia with due high risk of complication of victim, related to termination of pregnancy, as mentioned above, and fatal complication of prematurity, after consent of legal guardian.

5. Heard. I have considered the fact that the present applicant is only 13 years of age and she has a long life before her and as the MTP is possible, as per the aforesaid report, the ends of justice shall be met by making the parents / guardians of the victim girl understand the risk of MTP and after obtaining their consent in the language they understand or the vernacular language and after obtaining their signatures expressively to the effect that despite knowing the risk factors of performing MTP, they gave consent for the same, Respondent No.3- In-charge Medical Officer and Medical Superintendent, PDU General Hospital, Rajkot, is **directed** to perform the procedure of MTP, looking to the age of the victim girl, after taking all possible care and caution and after making arrangements for all the medical facilities, which may require during the performance of MTP, i.e. arrangement of blood etc., at the earliest and if possible, today, itself.

5.1 Respondent No.3 is also **directed** to ensure that the experts of various branches of medicine, whose presence may be required at the time of MTP, be kept present and such procedure must be performed with utmost care and caution.

5.2 With the aforesaid observations and directions, this petition stands **disposed of**.

5.3 In the meantime, this order is signed and uploaded on the website of the Gujarat High Court, learned APP, Ms. Chitaliya, is requested to inform Respondent No.3 about this order and to complete the necessary procedure / formalities for performing MTP, after explaining the risk factors to the parents / guardians of the victim girl in the language they understand or the vernacular language and obtain their written, express consent.

5.4 Learned Advocate, Mr. Patadia, is also **directed** to inform the parents / guardians of the victim girl to reach the hospital along with the victim girl so that the needful can be done, at the earliest.

Direct service is permitted, **today**.

(NIRZAR S. DESAI,J)

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