

**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

BEFORE

HON'BLE SHRI JUSTICE GURPAL SINGH AHLUWALIA

ON THE 31st OF MAY, 2024

WRIT PETITION No. 14913 of 2024

BETWEEN:-

**VICTIM A S/O NOT MENTION,
AGED ABOUT 35 YEARS, NOT
MENTION (MADHYA PRADESH)**

.....PETITIONER

(BY SHRI ANIRUDDH PRASAD SHAH - ADVOCATE)

AND

- 1. THE STATE OF MADHYA
PRADESH THROUGH THE
PRINCIPAL SECRETARY
DEPARTMENT OF HEALTH
AND FAMILY WELFARE
VALLABH BHAWAN BHOPAL
(MADHYA PRADESH)**
- 2. DISTRICT HOSPITAL
MEDICAL BOARD SINGRAULI
SINGRAULI DISTRICT
SINGRAULI (MADHYA
PRADESH)**
- 3. COLLECTOR SINGRAULI
DISTRICT SINGRAULI
(MADHYA PRADESH)**
- 4. SUPERINTENDENT OF
POLICE, SINGRAULI
DISTRICT SINGRAULI
(MADHYA PRADESH)**

5. THE STATION HOUSE
OFFICER, POLICE STATION
MORVA DISTRICT SINGRAULI
(MADHYA PRADESH)

.....RESPONDENTS

(BY SHRI SWAPNIL GANGULI – DEPUTY ADVOCATE GENERAL)

This petition coming on for admission this day, the court passed the following:

ORDER

The photocopy of the case diary has been produced.

2. This petition under Article 226 of Constitution of India has been files seeking following relief(s):-

“(i) Issue a writ in the nature of mandamus directing the Respondents to constitute a committee of doctors and under its supervision and advise prosecutrix may allowed to undergo the termination of pregnancy in the Respondent No.2 or in any suitable Hospital as deem fit and proper in the facts and circumstances of the case in the interest of Justice.

(ii). Issue any other writ, order or direction as this Hon'ble Court deems fit.”

3. It is submitted by counsel for the petitioner that his daughter is a minor girl aged about 14 years. Since, she was missing; therefore an FIR in Crime No.427/2024 was registered at Police Station Morwa, District Singrauli for offence under Section 363 of IPC. After the recovery of the prosecutrix, the Police has added offences under Sections 366, 376(3), 376 (2) (n) of IPC and under Section 5/6 of POCSO Act.

4. It is further submitted that his daughter is pregnant and in case if her pregnancy is not medically terminated, then she is likely to suffer the mental agony and she is not fit to give birth to a child of a rapist.

5. In compliance of order dated 29.05.2024, the father of the prosecutrix has also filed his affidavit that they will stick to their allegations that the prosecutrix was not only kidnapped but she was subjected to rape by the accused who has been arrested. The said affidavit is taken on record.

6. In compliance of order dated 29.05.2024, the State has filed the report given by CMHO, Singrauli, which is based on the report given by the District Medical Board, Singrauli, according to which “Pregnancy at any gestational age can be terminated by registered medical practitioner if fetus has substantial fetal abnormalities termination of pregnancy is approved by medical board.”

7. The report was produced in a sealed cover and it shall be kept in the record in sealed cover.

8. Accordingly, respondents are directed to carry out the termination of pregnancy of prosecutrix immediately. The CMHO, District Hospital, Singrauli is directed to admit the prosecutrix in case if she is brought by her father or her mother. In case if CMHO, District Hospital, Singrauli feels that for better treatment the prosecutrix is required to be sent to any multispeciality hospital, then he can refer her to the said hospital for undergoing the medical termination of pregnancy.

9. Father of the prosecutrix is directed to positively produce the prosecutrix before CMHO, District Hospital, Singrauli on **03.06.2024**.

10. The Doctors are also directed to preserve the fetus and they are directed not to preserve the fetus in **formalin solution**. They shall preserve the fetus as per the directives of DNA Test Laboratory. The preserved fetus shall be immediately handed over to the investigating Agency and the Investigating Officer is directed to send the fetus to DNA Fingerprint Laboratory within a period of two days from the date of seizure of the said fetus.

11. The DNA Fingerprinting Unit is directed to give their report positively within a period of one month from the date of submission of fetus for examination.

12. Since, the accused has already been arrested, therefore the blood sample of the accused shall also be sent for comparison purposes.

13. At the cost of repetition, it is needless to mention that in the light of judgment passed by High Court of Bombay in the case of **Shaikh Ayesha Khatoon Vs. Union of India and Others** reported in **2018 SCC OnLine Bom 11**, the Doctors, who will carry out the medical termination of pregnancy as well as the State Government shall not be responsible and the medical termination of pregnancy shall be conducted only at the risk and cost of parents of the prosecutrix.

14. With aforesaid observation, petition is finally **disposed of**.

(G.S. AHLUWALIA)
JUDGE