

GUIDELINES ISSUED BY HON’BLE HIGH COURT OF MADHYA PRADESH IN MATTERS PERTAINING TO ALLEGATIONS OF RAPE WHEREIN VICTIM BECOMES PREGNANT IN CONSEQUENCE THEREOF

By Institutional Article

The Hon’ble High Court of Madhya Pradesh **In Reference (Suo Motu) v. The State of Madhya Pradesh & ors., Writ Petition No. 5184 of 2025 dated 20.02.2025** laid down the following procedure to be adhered in matters pertaining to allegations of rape wherein victim is becomes pregnant in consequence thereof’ The directions cover both the situations i.e. when the pregnancy is up to 24 weeks and where the pregnancy is more than 24 weeks, in order to streamline the procedure to ensure timely legal and medical help to such victims:

(a) SOPs to be followed in case where the age of foetus/pregnancy of survivor of sexual assault or rape or incest is upto 24 Weeks:

Whenever a case of rape is registered at any police station, the following procedure shall be adopted:

- (i) The SHO of the said police station, on the basis of the MLC of the victim indicating that she is pregnant and the pregnancy is not more than 24 weeks, shall forthwith forward the victim to the concerned District Court, preferably Special Judge/POCSO;*
- (ii) The learned Judge of the District Court, preferably Special Judge/POCSO, regardless of any application for termination of pregnancy, though not maintainable, filed before it or not, shall refer the victim to the concerned medical officer/Board to expeditiously examine the case of the victim for termination of pregnancy in the light of the statutory mandates as engrafted in Section 3(2)(a) or Section 3(2)(b) of the Medical Termination of Pregnancy Act 1971 & The Medical Termination of Pregnancy Rules, 2003 framed thereunder;*
- (iii) The concerned medical officer/Board is expected to examine the case so referred expeditiously and accordingly terminate the pregnancy, if the same is permissible in consonance with the aforesaid statutory provisions of Medical Termination of Pregnancy Act 1971 and rules framed thereunder, in a time bound manner preferably within three days from the date of making such referral after obtaining consent of victim or guardian as required by Section 3(4) of the MPT Act;*
- (iv) Every care and caution will be taken by the doctors while terminating the pregnancy. All medical attention, medical facilities and other specialist doctors, if required, will be made available to the victim;*
- (v) The post-operative care, up to the extent required, will be extended to the victim;*
- (vi) The doctors will ensure that a sample from the foetus is protected for DNA examination and will be handed over to the prosecution for using in the criminal case.*

(b) SOPs to be followed in case where the age of foetus/pregnancy of survivor of sexual assault or rape or incest is exceeding 24 Weeks:

Whenever a case of rape is registered at any police station, the following procedure shall be adopted:

- (i) The SHO of the said police station, on the basis of the MLC of the victim indicating that she is pregnant and the pregnancy is more than 24 weeks, shall forthwith forward the victim to the concerned District Court, preferably Special Judge/POCSO;*
- (ii) The learned Judge of the District Court preferably Special Judge/POCSO), regardless of any application for termination of pregnancy, though not maintainable, filed before it or not, shall refer the victim to the concerned medical officer/Board to expeditiously submit its report, if the pregnancy of the victim can be terminated;*
- (iii) The District Court, preferably Special Judge/POCSO, after obtaining the said medical report, under intimation to the victim and her parents, directly refer such case and report to the nearest Registry of the High Court;*
- (iv) The Registry of High Court, in turn, shall register such reference as a Writ Petition under Article 226 of the Constitution, Suo Motu, and list the matter immediately before the concerned Bench having the roster, so that appropriate orders regarding termination of pregnancy can be passed by the High Court without any undue delay;*
- (v) If directed by the High Court that termination of pregnancy is required then, the procedure of termination of pregnancy will be carried out in the presence of the expert team of doctors. The expert doctors will explain to the family members as well as the petitioner the risk of getting the termination of her pregnancy and also other factors;*
- (vi) Every care and caution will be taken by the doctors while terminating the pregnancy. All medical attention and other medical facilities including that of a presence of a Pediatrician as well as a Radiologist and other required doctors will be made available to the victim;*
- (vii) The post-operative care, up to the extent required, will be extended to the victim;*
- (viii) The doctors will ensure that a sample from the foetus is protected for DNA examination and will be handed over to the prosecution for using in the criminal case.*

The court clarified that the aforesaid SOPs shall not be construed as to abridge or limit the power of the concerned medical officer/Board to terminate the pregnancy in the cases where the termination of pregnancy of woman is necessitated in accordance with the provisions of the Section 3(2B) and Section 5(1) or other applicable provisions of the Medical Termination of Pregnancy Act, 1971.

The court also directed that any forensic evidence/foetus collected in the course of termination of pregnancy must be preserved for DNA profiling or other investigative purposes in the same manner as provided under Rule 6(6) of the Protection of Children from Sexual Offences Rules, 2020. It also said that the privacy of the survivor shall be maintained strictly.