

ORDER BELOW EXH. NO. - 05

1] This is an application filed on behalf of the applicant namely- **Mrs. Sanobar Afzal Khan** for obtaining the grant of interim maintenance to the Rs.1,00,000/- per month as per section 23 and section 18(a to g), 19(f) of the Protection of Women from Domestic Violence Act, 2005.

2] It is the contentions of the applicant that she has filed the present application under the provisions of Protection of Women from Domestic Violence Act for her maintenance as the respondents have neglected, ignored and refused to maintain her and also deprived her from getting basic needs of her life like food, cloth, shelter, medical expenses and other expenses of applicant.

3] It is contention of the applicant stated that respondent No.1 is husband of applicant by marriage dated 07/07/2022 according to Muslim rituals and customs and started residing in matrimonial home at A-wing, 303, Hall road, Halav Pool, opp. Bilal Masjid, Kurla(W), Mumbai-400047. She has narrated a story in the body of main application in para No. 1 to 44 respectively.

4] As per contention of the applicant the respondent No.1 is working in It company as a Engineer and earning more than Rs.2,00,000/- per months and respondent No. 2 to 4 are other relatives and it is alleged that respondent No.1 is having illicit/ extra marital affair with number of girls, and applicant came to know that respondent No.1 had married to applicant only to fulfill his sexual desire and always forcing her for annal

sex by showing porn videos, which has totally broken applicant. The respondent No.1 always forcing her for sex in front of his minor daughter who is from the respondent No.1 first wife. When applicant refused to do all these things then the respondent No.1 used to beat her and defame her in front of the step daughter.

5] The applicant has further stated that, whenever the applicant tries too inquiry with respondent No.1 that with whom he is busy, why he had ruined applicant life by marrying her when he had other relation with other women, on that respondent No.1 had mercilessly beaten applicant that she could not even stand on her legs, she is having more age as compared to the respondent No.1 the respondent No.1 used to say her “Tu toh budhiya hai tere saath sex karne me maza nai aata” and respondent No.1 by abusing her in filthy languages. It is further alleged that applicant was all helpless.

6] It is further submitted that the all respondents were angry with the applicant family members because the respondents were not satisfied with the preparation of marriage. On the next day of marriage all respondents misbehaved with the applicant ill-treated immediately and after marriage they want applicant to take care of respondent No.1 first wife daughter and forced the applicant to do all household chores. They started exhausting applicant each and every time. The applicant was working entire household chores i.e. cooking, washing, and providing each and every necessity of respondent No.1 baby girl Inaya. Applicant is trying to maintain marital relation but all her

efforts died in vain before the vulture thoughts of respondent No.1 and his family.

7] It is further submitted that she does not have any source of income and residing at rental house. In present days she is facing challenges to maintain her expenses. Ld. Advocate for the applicant has submitted that it will take the time to decide the main application. On the contrary respondents are able to provide maintenance on monthly basis as because of he she had no option except leaving a matrimonial home because of selfish and cruel behavior of his and family members. She has no source of income.

8] As argued on behalf of the applicant that she has also asked for residential accommodation for residing with self respect and dignity in the society. Since then respondent No.1 have been harassed physical and mentally to the applicant and her facing many challenges to survive in their life. On the respondents have mental and physical tortured the applicant. Therefore, she has asked for interim maintenance for herself till the final decision of this case.

9] In support of application she has filed affidavit to seek interim relief against the respondents due to the ongoing domestic violence and for the safety and well-being of herself. It is also submitted on behalf of the applicant that the respondents have been very violent in nature though the applicant has supported him to make married life happy. She has stated that the respondents are liable to maintain her providing for food, cloths, shelter, medicine and other necessities of life. However, he

refused to perform his responsibilities.

10] It is further submitted that applicant has been subjected to continuous harassment, torture and domestic violence at the hands of the respondents and desertion by the respondents by causing domestic violence at the hands of the respondents due to which she has inflicted severe emotional. The respondent No.1 is possessive, angry in nature because of which frequent outbursts of anger have created an atmosphere of fear and tension within our household, leaving her no choice but to seek legal intervention for her protection. Advocate for the applicant argued that respondent's are liable to provide basic facilities and to meet needs of the applicant. He is having sufficient means to maintain his status and the status of women.

11] It is in the best interest of applicant that she has prayed for interim maintenance. She is fully capable of providing a nurturing and secure environment that promotes her development, free from fear and turmoil. In the light of the fact and circumstances potential harm inflicted upon her, she respectfully prayed to issue an interim protection from any kind of domestic violence against the respondent, restraining them from any form of contract, communication, or harassment.

12] In support of her application affidavit of Assets and Liabilities in the name of the applicant is placed on record at **Exh. No.10** on 17-05-2025. In support of her application she has filed on record, list of documents at **Exh. No.11** with Sr. No. 1 to 4. Considering the fact and circumstances Ld. Advocate for the applicant has prayed to grant interim maintenance of

Rs.1,00,000/- in favour of the applicant from the means of property of the respondent and also for residential accommodation.

13] In answer to the claim of the applicant respondents has placed on record his written statement and say at **Exh. No.9** along with the affidavit of Assets and Liabilities at **Exh. No.12** as per record where it is mentioned on behalf of the respondent he has narrated his story of defense denied all the contentions of the application. Respondent was always cooperate with applicant but applicant is misbehaved with all respondents. He has denied that he has neglected and ignored.

14] Ld. Advocate for the respondent submitted that the applicant has not mentioned any incident of ill-treatment, harassments entire application. The Respondent states that there were never any type of quarrel or dispute or conflict between the Applicant & Respondents, but the nature of the applicant is greedy nature which is never satisfied with money, applicant always want freedom from husband is Respondent No.1 and her legal liabilities towards their family and always threatened the Respondents that if Respondents will not fulfill her demands then she will leave their home.

15] It is submitted on behalf of respondents that the Respondents have always been tried to understand the applicant and always request the applicant that their financial condition will improve in short period and respondent No.1 will fulfill applicant demands. Though the point of custody is under consideration this Court, the Respondents have denied the

allegations made by the applicant.

16] The Respondents denies the allegations made by the applicant. The respondents have placed on record documents as listed below **Exh. No.12-A** with Sr. No. 1 to 7. He is also responsible to look after his parents and also ready to look after daily expenses. He further says that the applicant herself left matrimonial house without any just reason.

17] It is further stated that whatever story narrated on behalf of the applicant is baseless and not trustworthy and therefore, Respondents do not admit the same unless proved by the Applicant beyond any reasonable doubt. There is no proper reason or cause of action to file the present application under the mentioned sections of DV Act.

18] Ld. Advocate for the respondent submitted that as the Applicant has miserably failed to prove the basis of prima facie case against the Respondents by the totally false, vexatious and mischievous story created by the Applicant and the documents relied and referred upon to support are also not supportive in such created story. It is submitted that no able women can claim maintenance from her husband if she is educationally and physically capable to earn per hers survival. Therefore, applicant is not entitled for any kind of reliefs as prayed for to be granted in favour of the Applicant. In support of his case Ld. Advocate for the respondent has relied upon observations in the decision of Hon'ble High Court's **Madhya Pradesh High Court in Smt. Mamta Jaiswal Vs. Rajesh Jaiswal U(2000) DMC170** – decided on 24th March, 2000 AND **Megha Khetrapal Vs. Rajat Kapoor (CRL. REV.**

P. 273/2023 & Crl. M.A. 6767/2023) decided on 19th March, 2025. Hence, in the light of arguments canvased, Ld. Advocate for the respondents as prayed to reject this application as the applicants are not entitled to the reliefs sought by them.

19] Heard both sides. After going through the rival contentions of both the parties, following points arise for my determination and my findings with reasons stated thereon are as follows ;

Sr. No.	<u>Points</u>	<u>Findings</u>
1]	Whether the applicant is entitled to claim relief covered under Section 23 of the Act for interim maintenance as prayed for her. If yes, to what extent ?	Yes. Interim Maintenance of Rs.10,000/-per month for applicant.
2]	Whether the applicant is entitled to claim relief covered under Section 18 (a) to 18 (g) of the Act ?	Yes.
3]	Whether the applicant is entitled to claim residential accommodation matrimonial home at A-wing, 303, Hall road, Halav Pool, opp. Bilal Masjid, Kurla(W), Mumbai-400047. Or expenses for meeting rent of substituted residence of equal category provided ? relief covered under Section 19 (f) of the Act ?	Yes, Residential accommodation at A-wing, 303, Hall road, Halav Pool, opp. Bilal Masjid, Kurla (West), Mumbai-400047 OR amount of Rs.10,000/- for rent charges, if substituted residence of equal category is provided.
4]	What order ?	Both amounts liable to be paid from the date of application till final decision of this application. as per final order.

REASONS

Point No.1 to 3

20] Heard both the sides. Perused all the submissions and documents filed on behalf of both the parties respectively. It is a

fact on record that relations with applicant and Respondent no.1 are in dispute. The object of the D.V. Act is to provide a minimum relief to the aggrieved person extending the emergent help of the Court Order to provide, protection from violence, immediate assistance for residence, medications and folding. It is not disputed that the applicant is legally wedded wife as per Muslim rituals as reflected in the documents placed on record.

21] It is also undisputed fact that the relationship between the applicant and the respondent No.1 as that of husband and wife are still in existence. As per the contentions of the applicant in her application, She specifically stated that she is suffering from many challenges due to ignorance, mental and physical harassment at the hands of Respondent No.1 under instigation of other Respondent's. Therefore, she was dragged out of home and she is residing rental house without support of Respondent No.1.

22] It is observed that as per applicant contention the respondent No.1 has not made any arrangement of food and shelter for the applicant. The Ld. Advocate for the applicant has submitted that the respondent no.1 is doing job as a engineer and earning well. At present the applicant needs to be provided required finance to meet daily expenses of her and including medical expenses. The applicant is having deprived from their rights and thereby they are facing a day to day challenges to survive. Hence, she has prayed for grant of interim maintenance of Rs.1,00,000/- per month for her.

23] On the contrary the Ld. Advocate for respondents

have submitted that there is no proof about the income of respondents. He submitted that respondent No.1 is a not well earning and he is handling the responsibilities of Respondents also. Ld. Advocate for the respondent as specifically relied upon contentions in his pleading of same by way of preliminary objections and specific reply to the story of the applicant.

24] It is a fact which no one can deny that the respondent No.1 is young and able person and having good physical health. Even for the sake of argument and example it is considered that the respondent no.1 is doing Pvt. job as a Data Entry Operator then as per the prevalent wages he would have earn at least Rs. 600/- to 700/- per day approximately. It is not disputed that the applicant is residing with her parents. Whether the applicant has left matrimonial home at her own wish or she was compelled to left the matrimonial home, is a question required to be decided at the time of trial.

25] Being husband it is the duty of the respondent no.1 to look after the maintenance of applicant. Respondent no.1, except his affidavit of Assets and Liabilities at **Exh.12**, has not filed anything on record to show that he has made any arrangement for the maintenance of the applicant after she has left/dragged out of the matrimonial home.

26] Similarly, he has submitted that this Court shall take into consideration financial capacity of respondent No.1 while determining the proportionate amount of interim maintenance to be ordered. It is also observed in the above cited Judgment that if a husband well qualified, sufficient enough to earn, sit idle and

puts his burden on the wife and waits for a dole to be awarded by remaining entangled in litigation. That is also not permissible. The law does not help indolent as well idles so also does not want an army of self made lazy idles. Everyone has to earn for the purpose of maintenance of himself or herself, at least, has to make sincere efforts in that direction.

27] While dealing with the present application I have come across with the reading of ratio as observed in the case of **Smt. Mamta Jaiswal Vs. Rajesh Jaiswal (2000) DMC170 – on 24 March, 2000.**

If a husband well qualified, sufficient enough to earn, sits idle and puts his burden on the wife and waits for a dole to be awarded by remaining entangled in litigation. That is also not permissible. The law does not help indolents as well idles so also does not want an army of self made lazy idles. Everyone has to earn for the purpose of maintenance of himself or herself, at least, has to make sincere efforts in that direction.

28] Here, in the present case scenario it can be observed that the applicant is not much qualified as she has just mentioned about her qualification that is up to HSC but she is not having any personal income to meet her expenses. On the contrary, the respondent No.1 is husband of applicant and post graduate person who is well qualified, sufficient enough to earn up to Rs.1,00,000/- as reflected in his recent account statement of Axis Bank during the period 20-04-2025 to 29-07-2025 filed on record per observations.

29] After perusal of her affidavit of Assets and Liability at

Exh.10 where it reflects that the applicant is not doing any Job. Therefore, inference can be drawn that she is absolutely depend on the respondents who neglected her. He also refused to take care of every aspect of their maintenance. In the facts and circumstances as she has pleaded in her application she has prayed for grant of interim maintenance of Rs.1,00,000/- per month for herself from the respondent No.1. In that case certainly reasonable amount can be utilized in favour of the applicant to meet her daily needs.

30] As far as right to claim interim maintenance under the D.V. Act is concern; it was denied by the respondent No. 1 that if the applicant is claiming maintenance under the Act or if in any other proceeding then it is settled law that the provisions of Section 36 of D.V. Act provides that the provisions of this act this Act shall be in addition to, and not in derogation of the provisions of any other law, for the time being in force.

31] It will take time to decide the main application. The contention of the applicant that she is unable to maintain herself is supported by her affidavit. There are other expenses of her child relating to educational and medical issues. In such circumstances, it would be just and proper to award interim maintenance to the applicant. Therefore, in the light of observations of Hon'ble Supreme Court in **Rajnish Vs. Neha on 04 November, 2020**, there is no reason to disbelieve defence of respondent No. 1 about his financial capacity to pay requisite amount of maintenance as prayed by the applicant.

32] It is also seen that if the respondent No. 1 is earning of Rs.1,00,000/- then considering other liabilities and expenses as shown by him in his Affidavit of Assets and Liabilities, it would be just and proper to grant interim maintenance of Rs.10,000/- p.m. for applicant to meet her basic needs and daily expenses. Similarly, it will be proper to grant interim relief of residential accommodation at A-wing, 303, Hall road, Halav Pool, opp. Bilal Masjid, Kurla(W), Mumbai-400047 or to furnish amount of rent to the tune of Rs.10,000/- per month for availing substituted residential facility of same category like matrimonial house.

33] In addition to that the applicant is specifically asked for residential accommodation at Kurla in Matrimonial Home as she is living separately from the respondent since 31/10/2022 in her brothers home at Vashi then considering and dignity of of her cannot be deprived from the exercising their right to shelter as guaranteed under Article 21 of the Constitution of India. Therefore, it will be proper and just to grant Rs.10,000/- per month as a residential accommodation expenses to be imposed upon the respondent No.1 in favour of the applicant. Accordingly, I answer point no.1 in the “Partly affirmative.”

Point No. 4

34] In the light of above discussions and documents referred on behalf of both the parties it can be inferred that the applicant has made out the prima-facie case to grant an interim maintenance and for other reliefs covered under Section 23, 18, 19 of the Act. Hence, her application deserves to be partly allowed. Hence, I pass the following order ;

ORDER

1. Application is partly allowed.
2. Respondent No.1. **Mohd Afzal Khan** is hereby directed to pay Rs.10,000/- per month to the applicant as a interim maintenance from the date of main application.
3. Respondent No.1. **Mohd Afzal Khan** is hereby directed to provide residential accommodation at matrimonial home at A-wing, 303, Hall road, Halav Pool, opp. Bilal Masjid, Kurla(W), Mumbai-400047 OR to pay Rs.10,000/- per month for meeting expenses regarding residential accommodation of the applicant from the date of main application.
4. Copy of this order be given free of cost to the applicant in view of Section 128 of Code of Criminal Procedure.
5. Both parties and their respective Advocate to take note.
6. C. C. to update rozanama in C.I.S accordingly.

Navi Mumbai
Date : 29.07.2026

(**Shri. A. A. Babar**)
06th Jt. CJJD & JMFC, Court
Belapur, Navi Mumbai.