


MHAH080004832026 	<u>ORDER BELOW EXH-09 IN H.M.P.NO.</u> <u>94/2026.</u>
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Both petitioners being husband and wife have presented main petition on 05-03-2026 for a decree of divorce by mutual consent under Section 13B of the Hindu Marriage of Act, 1955 (hereinafter referred as to 'the Act'). Subsequent to that, instant application is moved by the petitioners as second motion and urged for waiver of six months mandatory period to be followed on second motion vide sub clause (2) of Section 13B of the Act.

02. The contents of this application are supported by an affidavit of petitioner No.1 and 2. Both the petitioners have signed on present application.

03. Perused application and record of the case, minutely. Heard the learned advocate for both petitioners. In support of application, he relied upon ratio laid down by the Hon'ble Supreme Court in the case of Amit Kumar ..Vs.. Suman Beniwal (2022 (2) Mh.L.J. 1), in which by making reference of observations made in the case of Amardeep Singh ..Vs.. Harveen Kaur, in Civil Appeal No.11158 of 2017 decided on 12-09-2017, held that following factors which the Court is obliges to take note of and if all the four conditions mentioned below are fulfilled, the Court would necessarily have to exercise its discretion to waive the statutory period

under Section 13B of the Act:

- i) The statutory period of six months specified in Section 13B(2), in addition to the statutory period of one year under Section 13B(1) of separation of parties is already over before the first motion itself;
- ii) All efforts for mediation/conciliation including efforts in terms of Order XXXIIA Rule 3 CPC/Section 23(2) of the Act/Section 9 of the Family Courts Act to reunite the parties have failed and there is no likelihood of success in that direction by any further efforts;
- iii) The parties have genuinely settled their differences including alimony, custody of child or any other pending issues between the parties;
- iv) The waiting period will only prolong their agony.

**04.** The factual matrix of instant case is that, marriage of both petitioner is solemnized on 01-12-2019. The main petition is presented on 05-03-2026. It is contended in petition (Exh-01) that, petitioners are residing separately from 01-01-2021.

**05.** The statutory period of one year under Section 13B(1) of separation of parties is already over in the month of January 2022. The parties have also availed mediation process for their reunion purpose. Unfortunately, said proceeding resulted into negative.

**06.** In view of foregoing discussion and factual matrix of the case in hand, I found substance in the application. Therefore, the application will have to be allowed. In the result, I pass following order :-

**ORDER**

- 1) The application (Exh.09) is allowed.
- 2) The statutory period of six months specified in Section 13B(2) of the Hindu Marriage Act, 1955 to be followed by the petitioners on second motion is waived for consideration of their petition (Exh.01).

Place : Sangamner.  
Date : 07.03.2026.

(Prasad B. Joshi)  
5<sup>th</sup> Jt. Civil Judge (Sr. Dn.),  
**Sangamner.**