

MHGA030011502024



**IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS**  
**GADCHIROLI**

(Presided Over by S.A. Bhaisare)

**P.W.D.V.A. Apln. No.42/2024**

**Sau. Shital Pavan Gajpure,**

Age 27 years, Occ. Household,  
Maternal Address – Andhali (Navargoan),  
Tah. Kurkheda, Dist. Gadchiroli.  
At present, By Rohini bangare,  
At. Balaji Ward, Chamorshi road, Gadchiroli,  
Tah. & Dist. Gadchiroli

... **Applicant**

**-VERSUS-**

**1. Shri. Pavan Dnyaneshwar Gajpure,**

Age 32 years, Occ. Service,

**2. Smt. Gita Dnyaneshwar Gajpure,**

Age 60 years, Occ. Household,  
Both, R/o. Delanwadi ward, near Chakradhar  
Swami Temple, Nagbhid road, Bramhapuri,  
Tah. Bramhapuri & Dist. Chandrapur

... **Non-applicants**

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-For Complainant	:-	Learned Advocate : P. P. Bramhanwade
For Accused	:-	Learned Advocate : K. P. Mhashakhatri

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**ORDER BELOW EXH.5**

(Passed on 30<sup>th</sup> June, 2025)

The present application has been filed by the applicants under section 23 of the Protection of Women from Domestic Violence Act of 2005 (hereinafter 'the Act' for short), seeking interim reliefs.

02. Perused the application. Heard Ld. Advocate for the applicant. No reply filed nor arguments advanced by the non-applicants despite being given sufficient opportunities.

03. Ld. Advocate Smt. S.B Munghate appearing for the applicant has submitted that the marriage between applicant and non-applicant no.1 solemnised as per Hindu rites and rituals on 02/03/2023. Thereafter, the applicant started residing with the non-applicant. However, within five days of the marriage, the non-applicants started harrasing the applicant. The non-applicant no.1 started abusing and beating the applicant. He has illicit affairs. In the month of July, 2023, the applicant suffered abortion due to ill-treatment at the hands of the non-applicants. The applicant no.1 is a peon in Government Gram Health Centre, Navegoan Pandav and earns a slary of Rs.40,000/- per month whereas non-applicant no.2 is a pensioner of Rs. 20,000/- per month. Due to mental and physical cruelty at the hands of non-applicants, the applicant left her matrimonial home on 16/02/2024 and started reiding with her maternal home. The non-applicant no.1 has a moral and legal obligation to maintain the applicant wife. Hence, the application may kindly be allowed.

04. Perused the record. Following are the points arising for my determination with my findings thereon along with reasons.

Sr. No.	POINTS	FINDINGS
1.	Whether the applicant prima facie is an aggrieved person ?	Yes.

- |    |  |  |
|----|--|--|
| 2. | Whether the applicant is entitled to interim maintenance? If yes, how much?      | Yes. Rs.5,000/- per month.                             |
| 3. | Whether the applicant is entitled to interim protection orders?                  | Yes.   |
| 4. | Whether the applicant is entitled to interim residential rent? If yes, how much? | No   |
| 5. | What order?  | Application is partly allowed in terms of final order. |

### **REASONS**

#### **AS TO POINT NO.1 :**

05. While considering an application under S.23 of the Act which is certainly a *prima-facie* phase of interlocutory adjudication, the Court is not supposed to go deep into the merits of the case or the evidence which may be brought at the time of trial. Even at this stage, it is not expected of an aggrieved person to bring the proof of pleaded allegations strictly.

06. The applicant has averred that she and non-applicant no.1 married as per customary rites and rituals on 26-06-2023 and she cohabited with the non-applicant no.1 after marriage for around four months. Further, she suffered domestic violence at the hands of non-applicant. Non-applicant have not denied marriage with the applicant and his cohabitation with her. Thus, the fact that there exists a domestic relationship and a shared household between the applicant

and non-applicant no.1 is *prima facie* established.

07. The applicant has filed affidavit to affirm the averments in the application. However, merely because the allegations are not denied would not make the averments of the application inconsiderable. But at the present stage, the averments in the application cannot be disregarded due to non-existence of counter allegations. Besides, the contentions on record indicate that some incidents having undertones of domestic violence have occurred between the parties which require ascertainment.

08. Further, the applicant averred that the non-applicant no.1 and 2 have not maintained her and inflicted domestic violence. It is admitted by the non-applicant that applicant has resided with the non-applicant no. 1 and 2 in the shared household. There is nothing on record showing that the non-applicant has been providing maintenance to the applicant. The failure to provide maintenance to the applicant *prima facie* amounts to economic abuse, which is a form of domestic violence.

09. Thus, the averments in the application supported by affidavit indicate that *prima facie* the applicant might have suffered some domestic violence and financial abuse which requires to be adjudicated through evidence. The documents and the affidavit *prima facie* indicate that the applicant is an aggrieved person. Therefore, I answer point No. 1 in the affirmative.

**AS TO POINT NO.2 :**

10. The applicant has asserted in her application and affidavit that non-applicant has income of Rs.40,000/- per month being the peon in Government Gram Health Centre, Navegoan Pandav. The applicant has also asserted that she is a homemaker and has no source of income and non-applicant no.1 has neglected to maintain her despite having sufficient income. The applicant has prayed for Rs.20,000/- per month each as interim maintenance.

11. Applicant has filed her assets and liabilities affidavit at Exh. 7. Applicant in her affidavit (Exh.7) has specified her own income to be Nil, and that of non-applicant no.1 to be Rs.40,000/- per month and non-applicant no.2 to be 20,000/- per month pension amount. The non-applicant has not filed his assets and liabilities affidavit despite sufficient opportunity. Affirmations in the affidavit need to be relied upon considering the material in support thereof.

12. The applicant has pleaded that she has no source of income. The non-applicant has not taken pains to contest the application. In this premise, it has to be presumed that the applicant has no source of income at this stage. Further, it appears that the non-applicant no.1 earns a salary of Rs. 40,000/- per month. Also, he has his dependant mother who earns pension income of Rs.20,000/- per month. Also, non-applicant no. 1 cannot be absolved from the responsibility of maintaining his wife applicant.

13. Marriage between the spouses in question is not disputed. It is also not disputed that applicant is living separately. It is nowhere the case of non-applicant that, any monetary aid is being provided to

the applicant. Being husband of the applicant, it is his moral and legal obligation to ensure her living. There is nothing on record to show that the applicant is suffering from any disease or disability. Considering her age of 27 years old, she is able to undertake physical work. She has no dependants. Therefore, considering the income of non-applicant no.1 on record, capability of the applicant to undertake physical work, the standard of life of the parties, and the necessities of the parties, granting monthly interim maintenance of Rs. 5,000/- per month to the applicant appears justified. Therefore, I answer point no.2 accordingly.

**AS TO POINT NO.3:**

14. Protecting a woman from domestic violence is the basic object of the P.W.D.V Act. Sufficient prima facie material in the form of application filed under S.12 of the Act made by applicant, has been placed on record to establish that, domestic violence is prima-facie committed and is likely to be committed at the hands of non-applicants. Therefore, till pendency of this case, it is just and proper to grant interim protection order to the applicant, prohibiting non-applicants from committing, abetting or aiding any act of domestic violence against applicant. Hence, I answer point no.3 in affirmative.

**AS TO POINT NO.4:**

15. It is the averment of the applicant in her pleadings and affidavit (Exh.7) that she is residing at her maternal home. There is nothing on record regarding expenses incurred by her for residential purpose. In view of this, it does not appear that she has incurred any

expenditure on residential rent and as such, she is not entitled for the same. Hence, I answer point no.4 in negative.

#### **AS TO POINT NO.5**

16. In view of the foregoing findings, applicant *prima facie* appears to be an aggrieved person, and applicant is entitled to Rs.5,000/- per month towards maintenance from non-applicant no.1 only. It is pertinent to note that the application was filed on 21/11/2024 and the summons were served on the non-applicants on 17/12/2024. But, they have not filed their written statement till date which resulted in passing 'no WS' order dated 10/03/2025. At the cost of repetition, it is important to note that the non-applicants have not advanced their arguments on the present application till date. Considering the facts and circumstances and the fact that non-applicant has caused unjustified delay in the proceedings, it appears just and reasonable to direct non-applicant no.1 with payment of interim maintenance from the date of application. From the discussion supra, applicant is entitled for protection order of interim nature. Therefore, in answer to point 4, I pass the following order.

#### **ORDER**

1. The application below Exh.5 is partly allowed.
2. Non-applicant no. 1 shall pay to the applicant Rs. 5,000/- (Rs. Five Thousand only) per month as interim

maintenance from the date of the application dated 21/11/2024 during pendency of the main application or till further orders of the Court.

3. Non-applicant no.1 and 2 are temporarily prohibited from committing, abetting or aiding any act of domestic violence against the applicant till the decision of the case.
4. Copy of this order be provided to all the concerned persons as per section 24 of the P.W.D.V Act.
5. Both the parties to expedite the trial of this case and ensure its disposal at the earliest.

Place:- Gadchiroli  
Date:- 30/06/2025.

sd/-  
(S. A. Bhaisare)  
Judicial Magistrate First Class,  
Gadchiroli.