

MHPU06-002424-2022	CRMA 495/2022 Nikhath Ebrahim Sutar Vs Ibrahim Sikandar Sutar
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Order Below Exh.27
Passed on 03.01.2026

This is an application filed by the respondent No.1 for the interim custody of the children namely Nida and Faiz under Section 21 of the Protection of Women from Domestic Violence Act, 2005.

2. It is contended by the respondent No.1 that applicant No.1 has filed present complaint under section 12 of the Protection of Women from Domestic Violence Act. The marriage between respondent No.1 and applicant No.1 was solemnized on 02.05.2010 at Malwadi, Bhilwadi, Taluka Tasgaon in accordance with Muslim religious rites and customs. From said marriage, applicant No.1 and respondent No.1 were blessed with a daughter named Nida on 23.07.2012 and a son named Faiz on 18.08.2014.

3. It is further contended that applicant No.1 is presently working at Ghorpadi, Pune, and is residing at her parental home along with applicant Nos. 2 and 3. Respondent No.1 is village resident and is not financially well-off; however, without any valid reason, applicant No.1 has deserted respondent No.1 and is living with the children at her parental house. Applicant No.1 is extravagant, short-tempered and quarrelsome in nature, due to which she does not reside with respondent No.1 and also does not allow the children to communicate with father i.e. respondent No.1. From the day applicant No.1 separated from respondent No.1 till date, applicant No.1 has not allowed respondent No.1 to meet applicant Nos. 2 and 3. Applicant No.1 is demanding an amount of Rs. 10,000,00/- from respondent No.1 in order to allow him to

meet the children. Applicant No.1 is depriving applicant Nos. 2 & 3 of parental love and affection. Hence, respondent No.1 prayed that he be permitted to meet applicant Nos. 2 & 3 on every date of hearing during court hours or at such appropriate times as directed by this Court.

4. Applicant No.1 filed her say below **Exh.28** and strongly opposed present application. Applicant submitted that respondent subjected her to severe harassment and drove her out of the matrimonial home. Since, the applicant separated from the respondent, he has never made any effort to take back applicant Nos.1 to 3 and never took responsibility of applicant Nos.2 & 3. Respondent No.1 harassing the applicant No.1 by prolonging the present matter . Hence, prayed for rejection of application.

5. Heard the Ld Adv for applicant and respondent. Perused the application and record. Considered the submissions. After hearing both sides and going through the record; following points arose for my consideration and I record my finding thereon for the reasons given there under.

S.No		Points	Findings
1	:	Whether the applicant is entitled for the child access of children – applicant Nos.2 & 3 as prayed?	In the affirmative
2	:	What order?	As per final order

As to Point No.1

6. It is undisputed fact that, marriage between applicant and respondent No. 1 is solemnized on 02.05.2010. It is also undisputed that, they have two children namely Nida and Faiz born out of said

wedlock.. Now the first question before the Court is that whether the respondent is entitled for the child access as prayed.

7. Section 21 of the Protection of Women from Domestic Violence Act, 2005, provides for custody orders. Therefore, it is necessary to observe relevant provisions of Section 21 of the Act.

Section 21 – Custody orders – Notwithstanding anything contained in any other law for the time being in force, the Magistrate may, at any stage of hearing of the application for protection order or for any other relief under this Act grant temporary custody of any child or children to the aggrieved person or the person making an application on her behalf and specify, if necessary, the arrangements for visit of such child or children by the respondent :

Provided that if the Magistrate is of the opinion that any visit of the respondent may be harmful to the interest of the child or children, the Magistrate shall refuse to allow such visit.

8. Heard both sides. Perused application and say thereon. It appears that child Nida is of 13 years 5 months of age and another child – Faiz is of 11 years 4 months of age. In the present application respondent No.1 is merely seeking that he be permitted to meet applicant Nos. 2 & 3 on every date of hearing during court hours or at such appropriate times as directed by this Court. In the present case, it remains undisputed that the children – applicant Nos. 2 & 3 have remained in the exclusive care of the applicant No.1. Therefore, there is no denial of the fact that the applicant No.1 remains a great source of comfort and safety to the minor children. At the same time, the desire of the biological father of the minor children, i.e. the respondent, to become an active part of the children's life cannot be discounted. It is right of both the parents to

contribute to their children's robust upbringing and share a bond of care and affection with their offspring. It is also in the best interest of the children to have the presence of both his parents in their life, which ensures a more holistic development and formation of sound emotional connections..

9. Therefore, in light of the facts and circumstances of the case, Respondent No.1 - father's intention and efforts to become actively involved in his children's life cannot be ignored and he needs to be given a material opportunity to develop a connection with his minor children. It shall be done in the form of granting him visitation rights.

10. I have personally interacted with applican Nos. 2 and 3 (children) when they appeared before this Court. From the interaction with both children they stated that they are ready and willing to meet with their father i.e. respondent No.1. Love and affection and the care and protection from the both parents are the basic right of every children and no one can deny said right to him. Therefore, in the present case, children are entitled for the care and protection from both applicant and respondent No.1. It is the duty of the Court to look after children's right to obtain love and affection from both parents.

11. Accordingly, I issue following order governing visitation rights of respondent No.1 with regard to minor children till the disposal of main application or any further order

ORDER

1. Application is allowed.

2. The respondent is allowed to speak and interact with the children on call once a week and meet children once in month after giving due consideration to the children educational schedule and otherwise.

3. Both parties are directed to provide schedule regarding time and place of meeting of respondent No.1 with children.

Sd/-

Pune.

Date : 03/01/2026.

(Rajashri. B. Yadav)

4th Jt Judicial Magistrate, First Class,
Cantonment Court Pune.

CERTIFICATE

I affirm that the contents of this PD.F. file are same word for word as per original.

Name of the Court	: Smt. Rajashri B. Yadav
Name of the Steno	: Pratik. J. Bobade, Steno Grade-3.
Order date	: 03.01.2026
Order signed by PO. on	: 05.01.2026
Order uploaded on	: 06.01.2026