

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS,
(COURT NO.2), DIGRAS, DISTRICT- YAVATMAL

	P.W.D.V.A. No. 66/2024 Sonu & others-Vs.- Sokretis & others. MHYA 13-001365-2024
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ORDER BELOW EXH.16

[Passed on 18/11/2025]

This is an application filed by applicant under Section 21 of the Protection of Women from Domestic Violence Act, 2005 (Hereinafter referred to as "the 2005 Act" in short) for grant of custody of her minor son namely Jayesh Soukretis Jadhav.

[2] It is the contention of applicant that, non-applicant No. 1 is her husband. During their wedlock non-applicant no.1 and his family members caused mental and physical harassment of applicant and expelled her along with her child from their house. Thereafter, the applicant filed application bearing No. 66/2024 under PWDVA Act against the non-applicant no.1 and his family members. At the time of filing application under PWDVA her son was with her therefore she made her child party i.e applicant no.2 in the present application. After filling said application, the non-applicant No. 1 and his family members have threatened to kill the applicant on account of filing complaint against them. On 30.04.2025 at about 07.00 am, applicant's mother along with applicant's son was present in

courtyard of his house and applicant was doing work inside house, at that time, non-applicant No. 1 came under influence of liquor and forcefully took possession of applicant's son from her mother. Thereafter, the applicant and her mother went at the house of non-applicant no.1 for taking her child however, non-applicant no.1 and his family member threatened to kill them.

[3] She also contended that, non-applicant no.2 is about 3 years. The non-applicant no.1 has refused to give custody of Jayesh to her and threatened her with dire consequences. Applicant's son is tender age and cannot live without her mother. She further contended that, on 30.04.2024 non-applicant no. 1 has taken forceful custody of applicant's son. Therefore, applicant has filed application under Section 100 of B.N.S.S. However, said application has been rejected by this court on the ground of non-tenability. Therefore, applicant has filed the instant application and asked for interim custody of her son and thereby prayed to grant custody of her son.

[4] The non-applicant no. 1 has filed his say below Exh.18 and opposed the application. As per say of non-applicant no. 1, the application filed by applicant is not tenable. Prior to one and half year, applicant herself went to her parent home without giving intimation to anyone. Non-applicant no. 1 has tried to bring her for cohabitation however, applicant refused. He further submitted that, applicant is having extra marital affair. Therefore, it is harmful to hand over custody of child to applicant. Applicant is having no right to claim custody of child. Hence prayed for rejection of application.

[5] Perused the application, main application filed under Section 12 of the 2005 Act, and say of the non-applicant no. 1. Heard both sides.

[6] It is a matter of record that, the age of Jayash is 3 years and he is sucking child. So also, the record shows that, at the time of filing main application there are two applicants i.e. the present applicant and her son. On perusal of affidavit of assets and liabilities filed by non-applicant no. 1 below Exh.14 dated 05.04.2025, he has specifically mentioned in column no. E(3) that, custody of Jayash is with applicant. Thus, these facts are sufficient to conclude that the son Jayesh was with applicant till 05.04.2025. However, non-applicant no.1 failed to give explanation about how is custody of minor Jayesh came with him at present. Also non-applicant no.1 failed to file any documentary evidence with respect to his allegation about extra marital affairs of applicant. Needless to say that, non-applicant no. 1 is natural father and applicant is natural mother of minor Jayash. The Domestic Violence Act not only protects the rights of aggrieved women but also keeps in mind the wellbeing of children.

[7] This Act is a special legislation enacted for the purpose of promoting the family relationship and institution of family. No doubt, in adjudication of application under section 21 of D. V Act paramount consideration shall be welfare of the child. It is also necessary that, the child gets love and affection of both the parents. The smooth and proper development of the child requires affection of both parents. It

is always good for the upbringing of the child that he has love and affection of both the parents. However, in the case at hand child remained deprived of the love and affection of his mother since 30.04.2024. Though the non-applicant no. 1 denied all the contention of applicant and placed certain facts before the Court, which I do not find just at this stage to consider. Therefore, at this stage in my considered view it is necessary to grant the custody of Jayesh aged 3 years to his natural mother. I thus, allow the application and inclined to pass the following order:

ORDER

1. The application below Exh. 16 is allowed.
2. The non-applicant no.1 is directed to handover the custody of Jayesh to her natural mother Sau. Sonu Soucretis Jadhav within 7 days.
3. The copy of the order be given to the protection officer and police station, Digras for information and affective compliance.
4. Protection officer and PSO, Police Station, Digras to provide affective aid in due execution of the custody order.

[Order pronounced in open court.]

Date :- 18.11.2025
Place:-Digras

(M. B. Sakhare)
Judicial Magistrate First Class,
(Court no.2), Digras, Yavatmal