

Order no. 9

Order dt. 1/6/2026

Both sides are present.

The record is taken up for hearing of interim maintenance petition filed by the petitioner.

Heard argument of both sides. The record is taken up for passing order.

This is a case under Section 144 BNSS. The petitioner, Sapri Das, has filed an application seeking interim maintenance from husband, Bikash Das for herself and their minor children.

1. The case of the petitioner, in brief, is that her marriage with the opposite party was solemnized on 2nd Jaistha, 1414 B.S. according to Hindu rites and customs, during which dowry including four bhoris of gold ornaments, a bicycle, furniture, and brass utensils were given by her parents. Out of the said wedlock, a son, Bijoy Das, and a daughter, Mithi Das, were born. The petitioner alleges that about a year after the marriage, she discovered her husband's characterless nature, and upon protesting, he began neglecting her and the children, returning home drunk daily, physically assaulting her, and demanding an additional cash amount of Rs. 1,00,000/- from her mother. Despite her efforts to maintain the conjugal life for the sake of their children's future, the opposite party denied them basic necessities, food, and medical treatment, and ignored the interventions of the local panchayat, threatening to kill them if the money was not brought. Matters escalated on 07/03/2025, when the opposite party, in a drunken state, severely assaulted the petitioner by pulling her hair, kicking her, and driving her along with the children out of the matrimonial home in their wearing apparels. Consequently, she took shelter at her widowed mother's house and initiated a criminal case against him, being Purbasthali P.S. Case No. 78/2025 dated 08/03/2025. The petitioner asserts that she has no independent income, whereas the opposite party earns a total of Rs. 35,000/- per month comprising Rs. 30,000/- from his vegetable business and Rs. 5,000/- from his double-cropped agricultural lands. Claiming to be in severe financial distress, she prays for a monthly interim maintenance for herself and for her two minor children.
2. The case of the opposite party, as delineated in his written objection, is a categorical denial of all allegations of cruelty, illicit affairs, and dowry demands, save and except admitting the factum of the marriage and the birth of the two children. The opposite party contends that just three months into the marriage, the petitioner began creating disturbances to reside at her paternal home, neglected household duties, misbehaved with his ailing mother, and inflicted physical and mental torture upon him. He alleges that the petitioner voluntarily deserted him to live at her paternal home and explicitly refused to return despite his repeated attempts, instead imposing an unreasonable condition that he must leave his home and live with her as a gharjamai (live-in son-in-

law). While acknowledging the pendency of the Purbasthali P.S. Case, he asserts it is completely false and maintains that he has always been, and still is, willing to resume his conjugal life. Refuting the claims regarding his financial prosperity, the opposite party states that he is an impoverished daily-wage agricultural laborer earning barely Rs. 8,000/- per month, which is subject to the irregular availability of work, and that he has an ailing elderly mother dependent upon him. Conversely, he claims that the petitioner is a skilled woman earning Rs. 10,000/- per month from tailoring work, alongside receiving Rs. 1,000/- monthly from the state's 'Lakshmir Bhandar' scheme, thereby possessing sufficient means to maintain herself, and accordingly, he prays for the dismissal of the interim maintenance petition.

Decision with reasons: -

3. Section 144 BNSS is a beneficial provision enacted with the object of preventing vagrancy and destitution among dependents who are unable to maintain themselves. It empowers the Magistrate to order a person having sufficient means to provide maintenance to his wife, legitimate or illegitimate minor child (whether married or not), who is unable to maintain himself/herself, or to his parents. The provision specifically enables the court to grant interim maintenance during the pendency of the proceedings to ensure speedy relief and prevent hardship to the applicants. It is settled proposition of law that the purpose of interim maintenance is to provide immediate support to the wife and children in distress, without delving into a detailed inquiry at this stage, which is reserved for the final hearing.
4. The entitlement to maintenance under this section is not absolute but is subject to the conditions that: (i) the person from whom maintenance is claimed has sufficient means; (ii) he neglects or refuses to maintain the claimant; and (iii) the claimant is unable to maintain himself/herself. In cases involving a wife, even if the wife has some earning capacity, maintenance can be granted if her income is insufficient to sustain a dignified life commensurate with the standard of living enjoyed during the matrimonial cohabitation. For minor children, the father's liability is primary and absolute, irrespective of the mother's income, as the children's welfare is paramount under the principles enshrined in the Hindu Minority and Guardianship Act, 1956, and general welfare jurisprudence.
5. On a prima facie perusal of the record, it appears that the petitioner and the opposite party were married on 2nd Jaistha, 1414 B.S., and the marriage was blessed with two minor children a son, Bijoy Das, and a daughter, Mithi Das. The marital relationship and the paternity of the children are admitted by the opposite party. The petitioner's allegations of being subjected to physical and mental torture for further dowry demands of Rs. 1,00,000, deprivation of basic necessities, and being brutally assaulted and driven out of the matrimonial home along with her children on 07/03/2025 establish a prima facie case of neglect and refusal to maintain. Since then, the petitioner has been residing at her paternal home. The opposite party denies these

allegations, claiming that the petitioner voluntarily deserted him and refused to return despite his efforts. These defences require detailed evidence and cross-examination, which cannot be adjudicated at this interim stage.

6. The opposite party's claim of being an impoverished daily-wage agricultural labourer earning only Rs. 8,000 per month is noted. However, the petitioner's assertion of his earnings of about Rs. 35,000 per month from his vegetable business and double-cropped agricultural lands creates a disputable but prima facie plausible ground for his sufficient means. The opposite party's claim of limited income does not absolve him of his obligation to provide maintenance, as it is well-settled that an able-bodied person has the capacity to earn and is duty-bound to do so to support his dependents. The opposite party, being an able-bodied individual, cannot evade his responsibility to maintain the petitioner and their children by merely asserting a low income. His potential to earn, coupled with the petitioner's averment of his substantial income, establishes a prima facie case that he possesses the means or capacity to contribute to their maintenance, especially in light of the petitioner's financial distress.
7. Interim maintenance ought to be allowed to prevent immediate hardship. The petitioner, having been driven out of the matrimonial home, faces the burden of sustaining herself and her two minor children, potentially in a rural area, where access to resources may be limited. Denying interim relief would exacerbate their vulnerability, potentially leading to destitution, which Section 144 BNSS seeks to avert. Moreover, the children's right to maintenance is independent and cannot be deferred, as it directly impacts their growth, education, and well-being.
8. The parties appear to reside in areas with moderate cost of living, comparable to rural locales in Purba Bardhaman district, West Bengal. The standard of living during cohabitation seems to have been modest, supported by the husband's income. Maintenance should enable the petitioner and children to maintain a similar dignified standard without luxury, focusing on necessities. It is also expected that the petitioner will seek opportunities to supplement this maintenance amount through her own efforts.
9. For the petitioner (wife): Basic daily expenses include food (approximately Rs. 100-150 per day for meals), clothing (Rs. 200-300 per month), personal hygiene and medical needs (Rs. 300-500 per month), and miscellaneous (transport, utilities shared at paternal home Rs. 500 per month). Aggregating these, a monthly requirement of around Rs. 4,000-5,000 is reasonable. The opposite party's allegation of the petitioner earning Rs. 10,000 per month from tailoring work and Rs. 1,000 from Lakshmir Bhandar scheme, though unsubstantiated at this stage, suggests potential earning capacity, but her claim of no income supports the need for interim support.
10. For the minor children: For each child, expenses encompass education (tuition, books, uniforms Rs. 1,000-1,500 per month), food and nutrition (Rs. 100 per day), clothing and medical (Rs. 300-400 per month), and extracurricular/recreational needs

(Rs. 200 per month), total Rs. 3,000-4,000 per child. The combined needs for both children approximate Rs. 4,000-5,000, which the father must primarily shoulder.

11. Balancing the disputed incomes, the opposite party's earning capacity is conservatively estimated at Rs. 8,000-35,000 per month, with the petitioner's alleged income at Rs. 11,000. The opposite party's claim of dependents is taken into account to ensure the maintenance amount is not unduly burdensome.
12. Accordingly, interim maintenance is fixed at Rs. 3,000/- per month for the petitioner and Rs. 2,000/- per month for their minor children, total Rs. 5,000/- per month. This amount is reasonable, non-excessive, and sufficient to meet basic needs without prejudicing the final decision.

Hence, it is

ORDERED

that the interim maintenance application filed by the petitioner is hereby allowed on contest.

The opposite party is ordered to pay the interim maintenance at the aforesaid rates i.e. Rs. 3,000/- per month for the petitioner and Rs. 2,000/- per month for the minor children, total Rs. 5,000/- per month from the date of filing of the application.

The payment shall be made by the 10th of each succeeding month directly into the petitioner, failing which coercive steps may be initiated as per law.

Let the matter be referred to the Mediation. BC II is directed to send referral order.

Fix 27.08.2026 for evidence/order.

T/C by me.

Sd/-

JM, Kalna
WB01370