

Order no. 9

Order dt. 4/6/2026

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, Moni Halder, has filed an application seeking interim maintenance from husband, Barun Halder 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 21/09/2012 according to Hindu rites and customs out of love and affection, without any dowry demands. Following the marriage, she commenced her conjugal life at the opposite party's house, and out of the said wedlock, a son named Angshuman Halder (currently aged 11 years) and a daughter named Ayushi Halder (currently aged 3.5 years) were born. The petitioner alleges that while they initially led a happy conjugal life for a few years, the opposite party and his family developed severe apathy towards her and the children following the birth of their daughter. She claims they refused to provide maintenance or food, subjected her to extreme misbehaviour over trivial issues, and ultimately, when she threatened legal action against the torture, the opposite party and his family physically abused her and drove her out of the matrimonial home in wearing apparel along with her minor children on 28/05/2021. Since then, she alleges, she has been surviving in distress at her paternal home, and despite her repeated attempts to reach a settlement through the opposite party's higher authorities, he has evaded all responsibilities and provided no maintenance or medical expenses. The petitioner asserts that she has no independent income, whereas the opposite party works as a Civic Volunteer for the Government of West Bengal, earning a monthly salary of Rs. 10,000/-, owns a pucca house, and has no other dependents. Consequently, she claims interim monthly maintenance for herself and for the educational and other expenses of her two minor children.
2. The case of the opposite party, as delineated in his written objection, is a categorical denial of all allegations regarding torture, desertion, and refusal to maintain, save and except admitting the factum of their love marriage 13 years ago and the birth of their son. He contends that because his parents did not accept the marriage, he lived in a rented house with the petitioner for two years before moving to a property provided by the petitioner's father near her paternal home, where they lived happily for eight years. The opposite party alleges that subsequently, the petitioner neglected household chores and their son, refused to lead a conjugal life, and spent excessive time chatting on her two mobile phones. He further alleges that she engaged in an extramarital affair with a neighbour named Sutanu, and upon his protests, she

initiated quarrels and ultimately left the matrimonial home voluntarily in November 2020 with their minor son, declaring she would not continue the marriage. He claims that despite his efforts to bring her back, she refused, leading him to file a suit for mutual divorce, which was dismissed on 16/05/2025 due to her non-appearance. Crucially, the opposite party vehemently denies paternity of the daughter born in 2022 while the petitioner was residing at her paternal home, asserting that they had no husband-wife relationship or cohabitation after November 2020. Regarding his financial status, he admits to being a Civic Volunteer earning Rs. 10,000/- monthly but denies owning any house or property, stating his parents are dependent on him. Conversely, he claims the petitioner works at a garment (genji) factory owned by Mani Halder in Krishnadevpur, earning Rs. 6,000/- per month, and therefore, as she left voluntarily for an illicit relationship and has her own income, she is not entitled to any maintenance.

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 or conduct, as the child's welfare is paramount.
5. On a prima facie perusal of the record, it appears that the petitioner and the opposite party were married on 21/09/2012, and the marriage was blessed with two children a son, Angshuman Halder (aged about 11 years), and a daughter, Ayushi Halder (aged about 3.5 years). The opposite party admits the marriage and the paternity of the son. The petitioner's allegations of neglect, misbehaviour, and being driven out of the matrimonial home along with the children on 28/05/2021 establish a prima facie case of neglect and refusal to maintain. Since then, the petitioner has been residing at her

paternal home with both children. The opposite party denies the allegations of torture and claims that the petitioner voluntarily left the matrimonial home in November 2020 due to an extramarital affair and has been residing separately without reasonable cause. These defences require detailed evidence and cross-examination, which cannot be adjudicated at this interim stage.

6. Regarding the daughter, the opposite party has disputed her paternity, claiming that there was no cohabitation after November 2020. However, at the interim stage, when the mother is maintaining the child and the child was born during the subsistence of the marriage, the Court can grant interim maintenance to the child pending final adjudication of the paternity dispute in appropriate proceedings. The welfare of the minor child cannot be ignored at this stage.
7. The opposite party admits that he is working as a Civic Volunteer and earns ₹10,000 per month. The petitioner's claim that he has additional income from a pucca house is noted but not required to be conclusively proved at this interim stage. Even on the basis of the admitted income of ₹10,000 per month, the opposite party has the capacity to contribute towards the maintenance of his wife and minor children. The opposite party's claim that the petitioner earns ₹6,000 per month is disputed and, even if accepted, does not completely disentitle her from claiming maintenance when she has made out a prima facie case of neglect and is maintaining the minor children.
8. 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, one of whom is school-going. Denying interim relief would cause undue hardship to the petitioner and the minor children, which Section 144 BNSS seeks to avert.
9. The parties appear to reside in areas with moderate cost of living, comparable to semi-urban locales in Purba Bardhaman district, West Bengal. Maintenance should enable the petitioner and the minor children to maintain a basic dignified standard, focusing on necessities such as food, clothing, shelter, education, and medical care. It is also expected that the petitioner will seek opportunities to supplement this maintenance amount through her own efforts, if possible.
10. For the petitioner (wife) a monthly requirement of around ₹4,000–5,000 appears reasonable at this stage. For the minor son (aged 11 years), educational and other expenses would require approximately ₹2,500–3,000 per month and for the minor daughter (aged 3.5 years), nutritional, clothing, and other expenses would require approximately ₹2,000–2,500 per month. Balancing the admitted income of the opposite party, his claim of supporting his parents, and the immediate needs of the petitioner and the two minor children, interim maintenance is fixed at ₹2,500/- per month for the petitioner, ₹1,500/- per month for the minor son, and ₹1,000/- per month for the minor daughter, total ₹5,000/- per month. This amount is reasonable, non-excessive, and sufficient to meet basic needs without prejudicing the final

decision. The maintenance for the daughter is granted prima facie and shall be subject to the final adjudication of the paternity dispute in appropriate proceedings.

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. ₹2,500/- per month for the petitioner, ₹1,500/- per month for the minor son, and ₹1,000/- per month for the minor daughter, total ₹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 17.09.2026 for evidence/order.

T/C by me.

Sd/-

JM, Kalna
WB01370