

In the court of Judicial Magistrate, 2nd Court, Bishnupur, Bankura

Present : Shamshad Ahmad (JO Code WB01454)

Misc Case No. 31 of 55 of 2025 (Regd. No. 54 of 2025)

CNR No. WBBK06-001246-2025

Order dated 01.08.2026

Today is fixed for hearing with regard to interim maintenance petition.

Both parties have filed their respective haziras.

Now, the record is taken up for hearing and passing Order in respect of interim maintenance petition.

This is an application supported by affidavit filed by the petitioner under section 144 Bharatiya Nagarik Suraksha Sanhita claiming interim maintenance for herself and two minor children from the O.P./husband to the tune of Rs.18,000/- per month.

After filtering out the unnecessary fact, the factual matrix in brief of the petitioner's and O.P.'s case are as follows:

Ld. Counsel for the petitioner submitted that that her marriage with the opposite party was solemnized on 24.05.2014 according to Hindu rites and customs. Out of the said wedlock, one daughter, aged about 9 years, and one son, aged about 5 years, were born. According to the petitioner, at the time of marriage her father provided cash of Rs.50,000/-, gold ornaments, furniture, utensils, clothes and other household articles as per the demand of the opposite party's family. The petitioner alleges that after a few days of marriage, the opposite party and his family members started demanding an additional Rs.20,000/- from her parental home and subjected her to continuous physical and mental cruelty when the demand was not fulfilled. She further alleges that she was frequently assaulted, abused, deprived of food and threatened with dire consequences. After the birth of the children, the alleged torture intensified. She narrates a specific incident dated 02.03.2025, when the opposite party and his paternal uncle allegedly assaulted her with bamboo sticks, causing injuries including a cut on her finger, for which she was treated at Kotulpur BPHC. Consequently, Kotulpur P.S. Case No. 77/2025 dated 03.03.2025 was registered against the opposite party and his family members. It is further alleged that the opposite party has neglected and refused to maintain the petitioner and the two minor children. According to the petitioner, the opposite party earns approximately Rs.35,000/- per month from pipeline work and agricultural income and is financially capable of maintaining them. She has, therefore, prayed for interim maintenance of Rs.10,000/- per month for herself and Rs.8,000/- per month for the two minor children, in total Rs.18,000/- per month.

On the other hand, the opposite party has filed a written objection denying all allegations of cruelty, dowry demand, assault and neglect. He contends that the allegations are false, fabricated and intended only to harass him. According to him, no dowry was ever demanded or accepted and the criminal case has been falsely instituted. The principal defence taken by the opposite party is that the petitioner has voluntarily deserted him and is living with another person, namely Asar Ali Pathan, after allegedly converting her religion and

changing her name to Ayesha Bibi. He relies upon an alleged Joint Declaration Marriage dated 06.08.2022, notarized documents and identity verification to contend that the petitioner has contracted a second marriage during the subsistence of the first marriage. He submits that she is presently residing with the said person, earning independently through livestock rearing and other activities, and is therefore not entitled to claim maintenance. The opposite party further asserts that he is merely a day labourer with limited income and has the responsibility of maintaining his aged mother and younger brother. On these grounds, he prays for rejection of the petition for interim maintenance as being not maintainable and devoid of merit.

Heard. Considered. Perused the materials available on record including the affidavit of assets and liabilities and other relevant documents filed by the O.P.

At this interlocutory stage, this Court is not required to record any conclusive finding regarding the rival allegations. The defence of the opposite party that the petitioner-wife has remarried involves disputed questions of fact requiring evidence and cannot be conclusively adjudicated merely on the basis of notarized documents placed during the hearing. Whether such alleged remarriage has in fact taken place and its legal effect are matters to be determined upon trial.

So far as the minor children are concerned, the opposite party has not disputed that they are his children. The statutory obligation of a father to maintain his minor children is absolute and independent of the disputes existing between the husband and wife. The materials placed before the Court prima facie indicate that the minor children are residing with the petitioner-wife and are dependent upon her for their maintenance.

Considering the rising cost of living, the educational and day-to-day expenses of the two minor children, and the prima facie financial capacity of the opposite party, this Court is of the opinion that the children deserve immediate financial support. As regards petitioner no.1, in view of the specific plea of remarriage raised by the opposite party, supported by certain documents, and the fact that the issue requires detailed evidence, this Court is of the view that the entitlement of petitioner no.1 to interim maintenance should be decided after the parties adduce evidence. Accordingly, no interim maintenance is awarded to petitioner no.1 at this stage, without prejudice to her rights to establish her entitlement during trial.

In my view, it will be just and proper, reasonable and sufficient in the instant case after considering the status of the parties, if the O.P. is directed to pay interim maintenance allowance at the rate of Rs. 4,000/- each for minor children per month i.e., the petitioner no.2 and 3, in such inflated market price of the essential goods for the survival of lives.

In my view quick disposal of this case is very much necessary. Thus, I direct both the parties to be ready for adducing their evidence by the next date.

Hence, it is

ORDERED

that the application for interim maintenance under section 144 BNSS is considered and allowed in part on contest.

The petitioner is entitled to get an amount of Rs. 4,000/- each for minor children per month i.e., the petitioner no.1 and 2, in total Rs.8,000/- towards interim maintenance allowance from the opposite party from the date filing of the instant application.

The opposite party is directed to make payment of Rs. 8,000/- per mensem for the maintenance of petitioner no.2 and 3 within the 10th day of every succeeding English calendar month, failing which the petitioner would be at liberty to execute the order so passed.

A copy of this order is given to the petitioner free of cost. The petition for interim maintenance is thus disposed of.

Fix 06.11.2026 for evidence.

Petitioner to file affidavit in chief after serving the copy.

Dictated and corrected by me

Sd/-

**J.M. 2nd Court,
Bishnupur, Bankura.**

Sd/-

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Bishnupur, Bankura.**