

**ORDER BELOW EXH.06**

This is an application filed by applicants under section 21 of the Protection Of Women From Domestic Violence Act, 2005 against respondent no.01 for grant of temporary custody of her minor son Vihan.

2. Perused the application. Heard the learned counsel Shri. S. G. Shrirame for applicants at length. Despite of service of notice as can be seen from the report (Exh.18) of the Protection Officer, respondent no.01 failed to appear. Looking to the urgency in the matter, the instant application is taken for consideration without the reply of respondent no.01.

The case of applicants in nutshell is as under :-

3. Applicant no.01 is the legally wedded wife of respondent no.01. Respondents have committed the acts of domestic violence against applicant no.01. On 13.05.2026, respondent nos.02 and 03 made quarrel with applicant no.01 and threw her along with minor applicant no.02 out of their house. Respondent no.01 also beaten applicant no.01 and asked her to bring Rs.2,00,000/- from her father. They threw applicants out of their house in the night at 10.00 p.m. and closed their door. Thereafter, applicant no.01 called the police help line no.112. Police took applicants at Javarabodi i.e. at the maternal house of applicant no.01. Since then, applicants are residing there. Thereafter, on 26.05.2026, respondent no.01 issued false notice through Adv. S. T. Nannaware.

4. On 05.06.2026, respondent no.01 came at Javarabodi

at about 01.00 p.m. At that time, the parents of applicant no.01 were present. After giving snacks to respondent no.01, the parents of applicant no.01 went at their agricultural field. Thereafter, respondent no.01 without asking applicant no.01 took applicant no.02 on his vehicle. Thereafter, applicant no.01 called respondent no.01. He told her to come at Kawadshi (Dag). When applicant no.01 went there along with her cousin Aditya Thakare, she found that her son was not present there. When she asked respondent no.01 about her son, at that time he told her that he took applicant no.02 at Metepar. Applicant no.01 told respondent no.01 that applicant no.02 cannot live without milk. At that time, respondent no.01 beaten applicant no.01. Thereafter, Aditya Thakare intervened and rescued applicant no.01. Thereafter, respondent no.01 went away. Applicant no.01 tried to give police complaint. But, police have not co-operated her.

5. Applicant no.02 is just 1 year 4 months old. He is dependent on the mother's milk. Being mother, applicant no.01 can look after him. Respondent no.01 is having the habit of consuming liquor. Hence, respondent no.01 cannot look after applicant no.02. Hence, applicant no.01 prayed for temporary custody of applicant no.02.

6. It is pertinent to note that perusal of report (Exh.08) of the Protection Officer reveals that the notice of the instant proceeding is duly served on respondent no.01. Moreover, perusal of the order sheet dtd.18.06.2026 reveals that respondent no.01 was present before the court when called out. However, thereafter,

he remained absent from the court when called out repeatedly. This shows the adverse conduct of respondent no.01.

7. It is pertinent to note that applicant no.02 is just a toddler of 1 year 4 months. The court can take judicial notice of the fact that he is dependent on applicant no.01 for mother milk. Thus, there can be no doubt that applicant no.02 requires the company of his mother i.e. applicant no.01. As there is no reply to the instant application hence, the contentions of applicant no.01 appears to be prima facie true. Forcibly taking away a toddler from his mother is a cruelty. It is imperative to note that in the matters of custody, the paramount consideration is the welfare of child. Here, in the case in hand, facts and circumstances show that the welfare of applicant no.02 is with applicant no.01. Moreover, section 21 of the PWDV Act, 2005 empowers this court to pass temporary custody orders pertaining to children. Thus, in the light of above facts and circumstances of the case, I am inclined to allow the instant application. Consequently, I proceed to pass following order.

ORDER

1. The application stands allowed.
2. Respondent no.01 is directed to handover temporary custody of applicant no.02 to applicant no.01.
3. In case of resistance by respondents, the P.S.O. Chimur is directed to place applicant no.02 in the custody of applicant no.01. Inform the P.S.O. Chimur accordingly.
4. The visitation rights of respondent no.01 shall be decided if respondent no.01 appears and apply for the same.

5. The copy of this order be given free of cost to both parties and P.S.O. Chimur for information and necessary action.

(Dictated and pronounced in open court)

Date : 19/06/2026

Place : Chimur

(R. D. Bhuyarkar)

JMFC