

Present : Kaustabh Bandyapadhyay, JM, Haldia (J.O. Code : WB01463)

Misc Case No.323/2024

CIS No. : 323/2024

CNR No. : WBEM08-003522-2024

Order dated 09.04.2026

Today is fixed for hearing of interim maintenance petition.

Hazira is filed by both sides.

Both sides are present.

OP files by firsti some documents. Let the same be kept with the record.

The interim maintenance petition dated 22.11.2024 is taken up for hearing.

Heard both sides at length.

Both sides have already filed affidavits of assets & liabilities.

Perused the interim maintenance petition, the record and the affidavits of assets and liabilities of both sides.

Maintenance laws have been enacted as a measure of social justice.

Chapter IX of Code of Criminal Procedure, 1973 provides for maintenance of wife, children and parents in a summary proceeding. Maintenance under Section 125 of the Cr.P.C. may be claimed by a person irrespective of the religious community to which they belong.

The remedy provided by Section 125 is summary in nature.

In **Chaturbhuj v Sitabai** it was held that the object of maintenance proceedings is not to punish a person for his past neglect, but to prevent vagrancy and destitution of a deserted wife by providing her food, clothing and shelter by a speedy remedy. Section 125 of the Cr.P.C. is a measure of social justice especially enacted to protect women and children, and falls within the constitutional sweep of Article 15(3), reinforced by Article 39 of the Constitution.

In recent landmark judgment of **Rejnesh vs. Neha & Anr. (2021) SCC 324**, the Hon'ble Supreme Court of India has laid down certain criteria for determining quantum of maintenance. The objective of granting interim / permanent alimony is to ensure that the dependent spouse is not reduced to destitution or vagrancy on account of the failure of the marriage, and not as a punishment to the other spouse. There is no straitjacket formula for fixing the quantum of maintenance to be awarded.

The factors which would weigh with the Court inter alia are -

1. the status of the parties;
2. reasonable needs of the wife and dependent children;
3. whether the applicant is educated and professionally qualified;
4. whether the applicant has any independent source of income;
5. whether the income is sufficient to enable her to maintain the same standard of living as she was accustomed to in her matrimonial home;
6. whether the applicant was employed prior to her marriage;
7. whether she was working during the subsistence of the marriage;
8. whether the wife was required to sacrifice her employment opportunities for nurturing the family, child rearing, and looking after adult members of the family;
9. reasonable costs of litigation for a non-working wife.

Present : Kaustabh Bandyapadhyay, JM, Haldia (J.O. Code : WB01463)

Misc Case No.323/2024

CIS No. : 323/2024

CNR No. : WBEM08-003522-2024

Order dated 09.04.2026

CONTD.....

On considering all the possible aspects as directed by the Apex Court, at this stage, I am inclined to allow a minimum amount to the petitioner as interim maintenance at this stage.

It is a good gesture that the son is ready and willing to take his aged parents at his own home. Both the Ld. Advocates for both sides should take appropriate steps to make this a reality, but in the meantime the OP shall pay some maintenance to his parents so that they can save themselves from starvation.

Hence, it is

ORDERED

that the petition for interim maintenance dated 22.11.2024 be and the same is allowed on contest, but in part.

The O.P is directed to pay **Rs.3,000/- per month to the petitioner and Rs.2,000/- per month to the son in total Rs.5,000/-**.

The O.P is directed to pay the said amount of **Rs.5,000/-** per month to the petitioner towards interim maintenance within **9th of each succeeding English calender month**.

Let a copy of this order be given to the petitioner free of cost.

To 01.07.2026 for evidence.

Dictated and corrected by me:

Sd/- Kaustabh Bandyapadhyay
Judicial Magistrate,
1st Class, Haldia.

Sd/- Kaustabh Bandyapadhyay
Judicial Magistrate,
1st Class, Haldia.