

MR 65 of 2025

Present : Sneha Basu

Judicial Magistrate

Nabadwip, Nadia

JO Code – WB01437

Order dated 02.06.2026

1. Today is fixed for order on petitioner's application for interim maintenance.

Both sides are present/represented.

Heard the Ld. Counsel for both parties on an earlier occasion.

The record is taken up for passing order.

Petitioner's Case

2. The case of the petitioner, in brief, is that she is the mother of the Opposite Party. According to her, she and her late husband, Naresh Chandra Debnath, brought up the Opposite Party and their other children with great hardship and provided for their education and marriage. It is alleged that after the death of her husband in the year 2017, the petitioner became financially distressed and is presently dependent upon others for her livelihood. She has stated that she is suffering from diabetes and other age-related ailments and has no independent source of income.

It is further alleged that the Opposite Party is employed in the Accounts Department of an NGO known as "Srishti Foundation" and earns more than ₹50,000/- per month. According to the petitioner, despite having sufficient means, the Opposite Party has neglected and refused to maintain her and has not contributed towards her food, medical treatment or other necessities. She has therefore prayed for interim maintenance at the rate of ₹10,000/- per month.

Opposite Party's Case

3. The case of the Opposite Party, in brief, is that the application is false, exaggerated and has been filed at the instigation of the petitioner's younger son. While admitting that the petitioner is his mother, he has denied the allegation of neglect. According to him, family disputes arose after his marriage and he was compelled to live separately from the petitioner.

The Opposite Party has contended that he is only a temporary employee in the Accounts Department of Srishti Foundation and earns approximately ₹17,920/- per month. He has further stated that he has a wife and a daughter to maintain and bears their educational and household expenses. It is also contended that the petitioner has been receiving support from her younger son and that the present proceeding has been initiated because of disputes relating to ancestral property. The Opposite Party has asserted that he is willing to look after

his mother but is not in a position to pay maintenance in the manner claimed by the petitioner.

Points for Determination

4. For deciding an application for interim maintenance under Section 144 of the Bharatiya Nagarik Suraksha Sanhita, the Court is required to prima facie consider:

- (i) Whether the petitioner is entitled to claim maintenance from the Opposite Party;
- (ii) Whether there is prima facie neglect or refusal on the part of the Opposite Party to maintain the petitioner;
- (iii) whether the petitioner is unable to maintain herself;
- (iv) what should be the reasonable quantum of interim maintenance.

Point No. 1: Relationship between the parties

5. The petitioner has claimed that she is the mother of the Opposite Party. The said relationship has not been disputed by the Opposite Party in his written objection. Accordingly, the relationship between the parties stands admitted.

This point is therefore decided in favour of the petitioner.

Point No. 2: Neglect or Refusal to Maintain

6. The petitioner has alleged that despite her old age, illness and financial hardship, the Opposite Party has failed to provide any financial assistance towards her maintenance. The Opposite Party, on the other hand, has denied neglect and has attributed the present proceeding to family disputes and property-related issues. The rival contentions of the parties involve disputed questions of fact which can only be conclusively determined upon evidence. At this interlocutory stage, the Court is only required to arrive at a prima facie satisfaction on the basis of the materials available on record.

7. Significantly, no document has been produced by the Opposite Party to show that he has been regularly providing any amount towards the petitioner's maintenance. Even according to the Opposite Party, the petitioner is living separately. In the absence of any material demonstrating actual maintenance being provided, and considering the admitted filial relationship, this Court is of the prima facie view that neglect to maintain stands established.

Accordingly, this point is decided in favour of the petitioner.

Point No. 3: Petitioner's Ability to Maintain Herself

8. The petitioner has asserted that she is an elderly widow, suffering from ailments and having no independent source of income. The Opposite Party has disputed certain factual assertions made by the petitioner but has not placed any material before this Court to establish that the petitioner has any regular source of income sufficient for her maintenance. At this interlocutory stage, there is nothing on record to indicate that the petitioner is capable of maintaining herself independently. On the contrary, the materials placed before the Court prima facie indicate that she is dependent upon others for her livelihood and medical expenses.

Accordingly, this point is also decided in favour of the petitioner.

Quantum of Interim Maintenance

9. The petitioner has alleged that the Opposite Party earns more than ₹50,000/- per month from his employment and has sought interim maintenance of ₹10,000/- per month. The Opposite Party, however, has claimed that he earns only about ₹17,920/- per month and is burdened with the responsibility of maintaining his wife and daughter.

The actual income of the Opposite Party is seriously disputed. No reliable documentary evidence has been produced before this Court at this stage to conclusively establish either the income alleged by the petitioner or the income claimed by the Opposite Party. Therefore, neither version can be accepted in its entirety for the purpose of interim adjudication.

10. It is well settled that the object of Section 144 BNSS is to prevent destitution and vagrancy. An able-bodied son has a legal and moral obligation to maintain his aged mother if she is unable to maintain herself. At the same time, while fixing interim maintenance, the Court must keep in view the paying capacity of the Opposite Party and the fact that the determination is only tentative in nature.

Considering:

- the admitted relationship of mother and son;
- the prima facie neglect to maintain;
- the old age and medical condition of the petitioner;
- the absence of any material showing that the petitioner has independent means;
- the disputed nature of the income of the Opposite Party; and
- the need to strike a balance between the needs of the petitioner and the financial responsibilities of the Opposite Party,

this Court is of the view that grant of a moderate amount would meet the ends of justice at this stage.

Hence, it is

ORDERED

11. The application for interim maintenance is allowed on contest in part, without order as to costs.

The Opposite Party is directed to pay a sum of ₹3,000/- (Rupees Three Thousand) per month to the petitioner as interim maintenance, with effect from the date of this order, until disposal of the main case.

The Opposite Party shall pay the said amount within the 10th day of each succeeding English calendar month, failing which the petitioner shall be at liberty to realise the same through Court.

Supply a free copy of this order to the petitioner.

Fix 22.09.2026 for evidence.

Sd/-

**Judicial Magistrate
Nabadwip, Nadia**