

M Case Number-16/2024**CNR No.-15000182024**

Dhananjay Saha and Gouri Rani Saha

.....Petitioner

--V/S---

Abhijit Saha

.....Opp. Party

Order dated: 06.02.2026

Today is fixed for interim hearing.

Both the parties are present by filing hazira through their concerned Ld. Advocates.

Ld. Advocate on behalf of the OP had submitted some copies of document by the way of firisti. Let the same be kept with the record.

Now the record is taken for hearing of the petition of interim maintenance

Heard both sides on that day. Perused the materials on record. Considered.

The record is taken up for passing order in respect of the petition for interim maintenance filed on behalf of the petitioner.

The petitioner's case, in a nutshell, that petitioner is the aged parents of the OP and OP being the son of the petitioner, he is not maintaining the petitioner properly. The petitioner further contended that the OP used inflict torture upon them and threatened them.

The petitioner has no savings and pension except a small shop of cloth which is in a condition to shut down and earns Rs. 7,000/- to Rs. 8,000/- per month and it is also difficult for them to lead a dignified life and also to bear the medical expense of his treatment as well as the treatment of his wife. On the contrary, the O.P. is an able-bodied person and he works at Om Blood Bank as Senior Executive wherefrom he earns an amount of Rs. 45,000/- per month. The petitioner on the above grounds prays for interim maintenance to the tune of Rs. 20,000/- per month for himself and his wife only from the opposite party.

The opposite party contested this case by filing the Written Objection along with documents in support of his claims denying each and every averment as made out in the petition for interim maintenance and stated that this case is a counterblast of the case of 498A filed by the wife of the petitioner. The OP also stated that all the problems evolved as he married the wife of his own choice and he also mentioned that he has to bear all the expense of his daughter and he also stated that he works as a salesman and earns Rs.10,800/- per month. The OP further contended that the petitioner is an able bodied person and has his independent source of income and also has a separate cloth store shop of his own.

The opposite party, on the above grounds, prays for rejection of prayer of petitioner for interim maintenance in the instant case.

To get an order of interim maintenance allowance, petitioner has to prove prima facie that :- 1) Petitioner is the father and mother of the OP and 2) Opposite party has failed and neglected to maintain the Petitioner in-spite of having sufficient means, 3) Petitioner is unable to maintain themselves.

Point no 1.

In the instant case, without prejudging any points raised by the respective parties, it appears to this Court that petitioners are the parents of the OP and OP had also accepted that as well.

As a son, the opposite party is duty-bound to maintain his parents.

Point No 2;-

It is alleged that the O.P has been neglecting and refusing to maintain the petitioner.

Whatever may be the reason, the fact remains that there is no whisper in the four corners of record suggesting that Opposite Party ever provided maintenance to the petitioner. The position being such, it can be prima-facie said that Opposite Party has refused and neglected to maintain the petitioner.

The next question is whether the Opposite Party has sufficient means or not? Petitioner contended that Opposite Party earns Rs. 45,000/- per month, but they failed to produce any documents in support of their contention.

Opposite Party denied the same and specifically contended that he earns Rs.10,800/- per month by way of working as a salesman. The words 'sufficient means' occurring in section 125 of Cr. P.C do not signify any visible means such as, real property or definite employment. If a man is healthy and able bodied, he must be held to possess the means to support his parents and he cannot be relieved of merely on the ground that he is unemployed or has a very little income. In the light of the foregoing discussion, this Court is of the view that Opposite Party has sufficient means to maintain the petitioner.

Now it is observed by this Court upon perusal of the record that there is no whisper in the four corners of record suggesting that Opposite Party ever provided maintenance to the petitioner. The position being such, it can be prima-facie said that Opposite Party has refused and neglected to maintain the petitioner. In this context it was observed in the case of **2005 Cri. LJ 3889 (3891)**, that *the question of necessity to grant interim maintenance is essentially a question to be decided on prima facie assessment of position of both the parties before the Court. A detailed inquiry is not contemplated while deciding an application for interim maintenance.* In the instant case, there is nothing on record to show that the petitioner has sufficient income to maintain himself and his wife. On the other hand, the OP has not mentioned anything about his means of livelihood despite his admission of having very less income wherefrom he has to bear all the expense of his wife and daughter. Thus, it is a matter of common prudence that a man who live his livelihood must have some source of income which enables him to meet up his daily expenses as well as liabilities. Thus, it prima facie appears that OP is at a better financial position compare to the petitioner.

Point No 3:-

Petitioner also contended that they have little source of income. Nothing is on record that the income of the petitioner is sufficient to bear all his expenses as well as medical expense of the mother of the OP. Having regards to all these circumstances, this Court finds no reason to disbelieve the assertion made by the Petitioner at this interim stage. The OP only contended that the petitioner also has some sufficient means of income but both the parties had failed to produce a single piece of paper as a proof of income.

The provision of the chapter IX of Code of Criminal Procedure 1973 are intended to fulfill a social purpose. Their object is to compel a man to perform the moral obligation which he owes to the society in respect of his parents. By providing a simple, speedy but limited relief, it was aimed to ensure that the neglected aged parents is not left at penury and in a destitute condition on the scrap-heap of the society and thereby driven to a life vagrancy, immorality and crying crime for their subsistence.

Thus, keeping in view the benevolent nature of the Act, the provisions under the act should be interpreted broadly. In **Workmen of American Express International Banking Corporation Vs. Management of American Express International Banking Corporation, (1985) II LLJ 539** the Hon'ble Supreme Court observed: -

"The principles of statutory construction are well-settled. Words occurring in statutes of liberal import, such as social welfare legislations, and 'human rights' legislations, are not to be put in procrustean beds or shrunk to Lilliputian dimensions. In construing these legislations, the imposture of literal construction must be avoided and the prodigality of its misapplication must be recognized and reduced. Judges ought to be more concerned with the 'colour', 'content' and 'context' of such statutes".

In view of the discussion made above and regards being had to the provisions of law and other materials on record in the considered view of this court, Petitioner is entitled to get interim maintenance allowance for him from the Opposite Party. But the question is what amount should be awarded to the Petitioner which can said to be reasonable. The petitioner though has claimed maintenance to the tune Rs. 20,000/- per month for himself and his wife from the opposite party. Considering the present market price and status of the parties, this Court is of the view that if, Rs. 3,500/- per month in favour of the Petitioners towards their interim maintenance allowance, it would be reasonable to either of the parties at this interim stage. Hence, it is

ORDERED

that the present application for interim maintenance allowance is hereby allowed on contest in part in favour of the Petitioner but considering the

circumstances without any cost.

Opposite Party is hereby directed to make payment of a sum of Rs. 3,500/- per month, to the petitioner towards their interim maintenance allowance with effect from the date of filing of the original application i.e. 10.01.2024 as per the guidelines provided by the Hon'ble Apex Court in **Rajnesh Vs. Neha (Criminal appeal No. 730 of 2020)**. The payment must be made within 10th day of each succeeding English Calendar month failing which, the petitioner is at liberty to realize the same through Court. Such amount is adjustable with the maintenance, if any, paid by the O.P. to the petitioner under any other statute.

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

Fix 09.07.2026 for PW.

Typed and printed by me:

Judicial Magistrate 2nd Court,
Barrackpore, North 24 Parganas

Judicial Magistrate 2nd Court,
Barrackpore, North 24 Parganas
JO Code- WB01493