

**In the Court of the Ld. Judicial Magistrate 1st Court, Raghunathpur,
Purulia.**

Present: - Bashar Nawaz

Judicial Magistrate, 01st Court,
Raghunathpur, Purulia.

Misc Case No. 51 of 2025

CIS Registration No. 54 of 2025

Case under Section 144 of BNSS

Badrun Bibi

-VS-

Naimuddin Ansari

Date of Delivery of Judgment: - The 30th of December, 2025

Order dated 30.12.2025

Today is fixed for passing order of interim maintenance petition.

Heard learned advocates for both sides at length on earlier occasion.

Perused the application filed under Section 144(1)(d) of the Bharatiya Nagarik Suraksha Sanhita, 2023, the petition for interim maintenance, the written objection and show cause filed by the opposite party, the affidavits of assets, income and expenditure filed by both parties, and all materials available on record. The petitioner has approached this Court claiming maintenance as a mother from her son during her lifetime on the ground that she is unable to maintain herself and has been neglected by the opposite party.

It is an admitted and undisputed fact that the petitioner is the biological mother of the opposite party. It is further admitted that the husband of the petitioner, Late Ainul Ansari, died while in service under Bhojudih Coal Washery and that the opposite party was appointed on compassionate ground after the death of his father. The petitioner is an aged widow of about 68 years. The opposite party is a permanent employee working as a Mechanical Fitter under Bhojudih Coal Washery. Thus, the relationship between the parties and the earning capacity of the opposite party are not in dispute.

The case of the petitioner, in substance, is that since 08.07.2024 she has been deserted and neglected by the opposite party and is compelled to live under the mercy of her daughters. It is specifically pleaded that she has no independent source of income, is suffering from age-related ailments, and is unable to meet even her basic necessities including medical expenses. The petitioner has asserted that despite repeated requests and intervention of relatives and well-wishers, the opposite party has failed to provide her adequate maintenance and care.

The opposite party has denied allegations of cruelty and neglect and has contended that the petition is false and motivated. However, he has admitted his employment and income and has also stated that he is willing to maintain his mother. He has further claimed that he pays Rs. 6,000/- per month to the petitioner and that he has several dependants and liabilities. However, no cogent documentary material has been produced to establish regular and sufficient payment of maintenance adequate for the sustenance of the petitioner considering present cost of living.

Section 144(1)(d) of the Bharatiya Nagarik Suraksha Sanhita is a beneficial provision enacted with the object of preventing destitution and vagrancy of parents. The Hon'ble Supreme Court has consistently held that the obligation of a son to maintain his parents is both legal and moral. In *Vijay Manohar Arbat v. Kashirao Rajaram Sawai*, the Supreme Court categorically held that a son having sufficient means is under an obligation to maintain his parents and that parents need not establish absolute destitution; inability to maintain themselves with dignity is sufficient. The said principle squarely applies to the present case.

Though the parties are governed by Muslim Law, it is now well settled that proceedings for maintenance under criminal procedural law are independent of personal law. In *Noor Saba Khatoon v. Mohd. Quasim*, the Hon'ble Supreme Court held that the right to maintenance under criminal law is a measure of social justice and cannot be curtailed by personal law considerations. Therefore, the plea based on personal law raised by the opposite party cannot defeat the statutory right of the petitioner under Section 144 BNSS.

The expression "sufficient means" does not imply only actual income but also includes earning capacity and overall financial stability. In *Chaturbhuj v. Sita Bai*, the Hon'ble Supreme Court held that the test is not whether the person is actually earning but whether he has the capacity to earn and provide maintenance. In the present case, the opposite party has admitted that he is a permanent employee and has disclosed a monthly income of about Rs. 72,000/-, which clearly establishes that he has sufficient means.

The object of granting interim maintenance is to ensure that the claimant is not driven to destitution during pendency of the proceeding. Interim maintenance is not a matter of charity but a statutory right. In *Rajnish v. Neha*, the Hon'ble Supreme Court held that interim maintenance must be realistic and reasonable, keeping in view the needs of the claimant and the income of the respondent, so that the claimant is able to live with dignity. Delay or denial of interim maintenance defeats the very purpose of the provision.

From the affidavits of assets and income filed by both parties, it appears that the petitioner has no income and is dependent on others for her survival, whereas the opposite party has a stable and regular source of income. The alleged payment of Rs. 6,000/- per month, even if assumed, cannot be said to be sufficient to meet the petitioner's basic needs including food, shelter and medical expenses in present economic conditions.

The Hon'ble Supreme Court in *Bhuvan Mohan Singh v. Meena* has observed that neglect of aged parents by able-bodied children is a serious social problem and that courts must act with sensitivity and promptness in maintenance matters. The right to live with dignity is an integral part of Article 21 of the Constitution, and such dignity cannot be denied to an aged parent by withholding reasonable maintenance.

Considering the age and physical condition of the petitioner, her lack of independent income, the admitted earning capacity of the opposite party, and the settled principles of law laid down by the Hon'ble Supreme Court, this Court is of the considered opinion that the petitioner has established a strong prima facie case for grant of interim maintenance. The balance of convenience lies in favour of the petitioner, and denial of interim relief would cause irreparable hardship to her.

Accordingly, the petition for interim maintenance is allowed in part. The opposite party, Naimuddin Ansari, is directed to pay a sum of Rs. 10,000/- (Rupees

Ten Thousand only) per month to the petitioner, Badrun Bibi, as interim maintenance, with effect from the date of filing of the interim maintenance application, until disposal of the main case. The said amount shall be paid on or before the 10th day of each succeeding month. Any amount already paid, if duly proved, shall be adjusted accordingly. In case of default, the petitioner shall be at liberty to take steps for enforcement in accordance with law. The main application under Section 144 BNSS shall proceed on its own merits.

Hence it is

ORDERED:

Accordingly, the petition for interim maintenance is allowed in part. The opposite party, Naimuddin Ansari, is directed to pay a sum of Rs. 10,000/- (Rupees Ten Thousand only) per month to the petitioner, Badrun Bibi, as interim maintenance, with effect from the date of filing of the interim maintenance application, until disposal of the main case. The said amount shall be paid on or before the 10th day of each succeeding month. Any amount already paid, if duly proved, shall be adjusted accordingly in final adjudication. In case of default, the petitioner shall be at liberty to take steps for enforcement in accordance with law. The main application under Section 144 BNSS shall proceed on its own merits.

Dated: 30.12.2025

Typed by me;

Judicial Magistrate, 01st Court

Bashar Nawaz
Judicial Magistrate, 01st Court