

**In the Court of Judicial Magistrate (2<sup>nd</sup> Court)**  
**Diamond Harbour, South 24 Parganas (WB)**  
**Present: Smt. Priyanka Zimba, WBJ S**  
**(WB01293)**

**MAINTENANCE. CASE NO. 193/2025**

**CIS NO. 193/2025**

**Summa Khatun**

**v.**

**Raja Sardar**

**Order dated 15-11-2025:**

Today is fixed for hearing of interim maintenance petition as last chance.

Parties file their respective represented haziras.

O.P files some documents by firisti.

Now, the case is taken up for hearing of the interim maintenance petition.

Heard the Ld. Advocate for the parties in full.

The case record is taken up for passing order.

It appears that the interim maintenance petition has been filed praying for interim maintenance of Rs 8,000/- per month for herself and Rs. 5,000/- per month for the minor son total being Rs. 13,000/- per month.

Perused the case record and material therein.

Considered.

This is a case instituted u/s 144 of BNSS on behalf of the petitioner namely Summa Khatun and her minor son Ajan Sardar against the O.P named Raja Sardar.

The petitioner's case in brief is that the marriage between the petitioner and the O.P was solemnized on 17-07-2022 according to Muslim rites and customs at *Dinmohar* fixed at Rs. 3001/- and the same was also registered. After

marriage she started her marital life in his husband's house. During the said wedlock one son born named Ajan Sardar (present age 02 years).

It is stated that after marriage, the O.P and his family members started torturing the petitioner mentally and physically for demand of more dowry. She was not given proper food and clothes. The O.P increased the amount of torture after the birth of their child. The petitioner continued her conjugal life bearing the torture hoping for better future. The petitioner informed the matter to her parents who tried to settle the matter but the O.P again continued torturing the petitioner.

On 20-11-2024, the O.P and his family members assaulted the petitioner brutally, snatched all her stridhan articles and drove her out of her matrimonial house with her minor son. Finding no other alternative, the petitioner then took shelter at her father's house. The petitioner also lodge complaint before local P.S and a case for cruelty was initiated against him. Since then the O.P did not take any information about them and did not pay any maintenance to the petitioner and her child for which she filed this instant case.

The petitioner is a deaf and dumb lady and she has no income of her own to maintain herself where as the O.P is a solvent person having landed and agricultural property. He is a mason contractor and earns about Rs. 50,000/- per month. Despite of having sufficient means the O.P has failed and neglected to maintain the petitioner and her son for which she has filed this instant case u/s 144 of BNSS praying for Rs. 13,000/- as interim maintenance for herself and her children.

The O.P appeared before this court and filed his show cause petition and declaration of assets. The O.P has not filed any specific written objection against the interim maintenance petition but the Ld. Counsel for the O.P during hearing submitted that the O.P had love affair with another sister of the petitioner but his marriage was solemnized with the petitioner fraudulently. It is stated that the O.P and petitioner could not adjust with each other because the petitioner was deaf and dumb and for that matter the mother of the petitioner started residing with them. It is further stated that even the mediation failed because of the mother of the petitioner whereas the O.P is willing to lead conjugal life with the petitioner. It is further stated that the O.P is a day labour and earns only Rs. 6000/- per month. Ld. Counsel prays for rejection of the interim petition.

I have heard the Ld. Counsel for the parties as well as gone through the interim petition, show cause petition and the declaration of assets filed and the documents filed by the O.P.

On perusal on the case record, I find that marriage and paternity is admitted by the O.P though the O.P has mentioned that marriage was solemnized by way of fraud. At this stage both parties made allegations against each other which can only be considered after the appreciation of evidence in the trial stage. The O.P has also filed copy of notice showing he wrote to the petitioner showing his willingness to lead conjugal life. However, it is also admitted position, as seen from the affidavit of disclosure, that no amount of maintenance has been paid to the petitioner or to the minor child by the O.P till date. Admittedly, the petitioner is a deaf and dumb lady and if the O.P intends to challenge the marriage he has option to move before the

competent authority but herein, he has admitted the marriage and also stated that he intends to lead conjugal life with her while challenging the solemnization of marriage. As such, the O.P is blowing hot and cold at the same time.

The petitioner has claimed urgency due to her being deaf and dumb and her childr being minor and that appears to be a valid point as because, I do not find anything against the minor child for which he has to suffer. The object of section 144 of the BNSS is to prevent vagrancy and destitute but herein the child is suffering in the conflicts of the parents and therefore I find that there is urgency to grant interim relief. Considering the rival contentions and the declarations of both parties, I find that the petitioner has been able to show a *prima facie* urgency in her favour and therefore I am inclined to grant interim maintenance.

The petitioner has stated that the O.P earns Rs. 50,000/- per month but no document has been filed to show the same at this stage. The O.P, on the other hand has mentioned his income as Rs.6000/- and filed one panchayat certificate in this regard. Considering all aspects, I believe that a sum of Rs. 1500/- per month for the petitioner and Rs. 1000/- per month for the minor son will be reasonable as maintenance amount for the interim period.

All other facts will be considered after the appreciation of evidence.

Hence, it is,

**ORDERED**

That the petition for interim maintenance against the opposite party filed by the petitioner is **allowed on contest** without any order of cost.

The Petitioner does get a sum of **Rs. 1500/- per month (Rupees One Thousand Five Hundred only) for**

**herself and Rs. 1000/- per month (Rupees One Thousand only) for her minor son total Rs. 2500/-** as interim maintenance allowance from the date of the institution of this case until disposal of the case. Opposite party is directed to pay the aforesaid amount of monthly interim maintenance within 10<sup>th</sup> day of each succeeding month of English Calendar.

The O.P is further directed to pay the arrear amount of **Rs. 15,000/- ( Fifteen Thousand Only)** for the month of May, 2025 to October, 2025 in six equal installments starting from December 2025 to May, 2026 at the rate of Rs. 2500/- along with the regular monthly payment.

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

To **13-03-2026** for Evidence.

D/C

**S/d-**

Judicial Magistrate,  
2<sup>nd</sup> Court, DDH

**S/d-**

Judicial Magistrate,  
2<sup>nd</sup> Court, DDH