

**Misc CrI. 59/23**

**Regd No. 59/2023**

Present : Sumana Garain (WB 01068)  
A.C.J.M.-cum-Civil Judge (Sr. Division),  
Kakdwip, South 24 Parganas

**Amrita Mondal** .....Petitioner

v/s

**Basab Jana**.....Respondent/Opposite Party

**Date: 19.09.2025**

Both parties file hazira through their respective advocates.

The respondent has filed some documents.

The petition for interim relief u/s-23 of PWDV Act is taken up for passing order.

Perused the petition, the W/O filed by the respondent and other materials on record and also the documents filed by the both parties.

The protection officer has filed the DIR. I have carefully gone through the DIR.

Heard both sides.

The case of the petitioner in brief is that the aggrieved party/petitioner is the wife of respondent. The petitioner was married to the respondent on 10.03.2014 according to Hindu rites and customs. After marriage she went to her matrimonial home. Out of their wedlock, one male child was born namely, Subhrabir Jana aged about 8 years. After 6 months of marriage the respondent's parents started inflicting mental torture upon the petitioner after the respondent left for his work place. On April, 2016 the petitioner was compelled to shift at a rented accommodation at Kakdwip. The respondent mortgaged all the gold jewelry of the petitioner and also some of her jewelry to his sister. Later on the petitioner got back her gold article after paying Rs. 42,000/- which was paid by her brother. In the year 2018 the petitioner shifted to Kolkata and his son was admitted into a school at Ballygunge. After that she was again returned to Kakdwip at a rented house. However after that she shifted to Sonarpur where her husband has been staying till date with her son. The respondent used to meet her at his holidays, but he used to misbehave with her. On November, 2021 the petitioner went to the house of respondent on the occasion of her son's birthday and on that day the respondent assaulted her. On 25.11.2021 the respondent left her at her rented accommodation at Sonarpur. Since then the respondent has never enquired about her. The respondent used to send money irregularly and petitioner has to take help of her brother to meet her expenses. The respondent has not been paying any maintenance to her and to her son. The respondent has his own house and pond. Apart from the respondent is working as constable in BSF and has been drawing salary of Rs. 80,000/- per month. He has a flat at Bishnupur.

The petitioner has prayed for protection order, residence order at the flat of the respondent, monetary relief of Rs.20,000/- for herself and Rs.15,000/- for her son as interim order and also compensation.

The respondent has filed the WO. The respondent has admitted marriage and paternity of the child in his WO. The respondent has further mentioned that the petitioner used to misbehave with his parents and did not look after them. The petitioner used to pressurize the respondent to live as gharjamai and used to inflict mental torture upon him. The petitioner also tried to misappropriate all his income. She voluntarily started residing at her parent's house at the instigation of her brother and mother. The respondent tried to take her back and when he failed to do so he sent an advocate letter to the petitioner on 18.11.2021. The respondent also sends money to the petitioner through post. The petitioner filed an application at the BSF Department which was disposed of by the Department. The respondent has filed a Mat Suit no. 8/2002 against the petitioner for divorce. The petitioner is a well educated woman and she earns Rs. 15,000/- to Rs. 20,000/- per month as private tutor. The respondent is an employee of BSF and draws salary of Rs. 62,887/- per month. He has to look after his aged parents. The respondent has purchased a flat at Pailan and paid Rs. 5,00,000/- till date, but the flat is under construction and is not handed over to him till date. The respondent has prayed for dismissal of the interim petition of the petitioner. The respondent has not filed any affidavit on assets and liabilities till date.

On perusal I find that the Protection Officer has filed Domestic Incident Report. The petitioner has filed an affidavit on assets and liabilities, but the respondent has not filed any affidavit on assets and liabilities which is mandatory for both the parties to file.

During hearing ld. Advocate for the petitioner has submitted that the petitioner has not filed any case u/s. 498A IPC against the respondent as she is willing to live with her husband and at present the petitioner is in need of maintenance and residence order and she has also prayed for compensation for her harassment.

On the other ld advocate for the respondent has submitted that no cruelty was committed upon the petitioner by the respondent and the respondent has sent money to the petitioner regularly, on the other hand the petitioner has filed a complaint against the respondent before his Department which was disposed by the Department. Ld advocate referred a judgment of **Hon'ble Supreme Court (Deb Narayan Halder Vs Smt. Anushree Halder on 25<sup>th</sup> August 2003 arising out of Special Leave Petition (Crl.) No. 4047 of 2002)** where Hon'ble Supreme Court had been pleased to reject the maintenance application of the wife on the ground that the respondent failed to prove that she was subjected to torture and harassment by the appellant. Ld advocate has also referred another judgment of **Hon'ble High Court, Madhya Pradesh at Indore (Smt. Radhika Vs Lakshya Kumar and ors. Criminal Revision No. 3528 of 2024)** where the Hon'ble High Court was pleased to observe that the wife is also not entitled to lead a life of idle people, she can live with liberty to earn something for her livelihood with the aid of interim maintenance of amount obtained from her husband.

I have gone through the judgments referred by the ld advocate for the respondent. On perusal of the judgment of **Deb Narayan Halder Vs Smt. Anushree Halder on 25<sup>th</sup> August 2003 arising out of Special Leave Petition (Crl.) No. 4047 of 2002** it appears that the judgment was passed after taking the evidence. But in this case the evidence is not yet taken and this is the interim petition hearing. In such circumstance the judgment is not applicable in the present case. The other judgment referred by ld advocate for the respondent, it appears to me that in that case the High Court affirmed the interim maintenance order in favour of the wife.

The Protection Officer has filed the DIR from where a prima facie case of domestic violence is made out. It is admitted that the petitioner and respondent are husband and wife so there is a domestic relationship in between the parties. The paternity of child is also admitted.

The petitioner has prayed for compensation along with other prayers. No separate petition is filed by the petitioner for the interim order of compensation. The petitioner has also not filed any document in support of her claim. This is very initial stage of proceeding and both parties brought allegation and counter allegation against each other which shall be decided after taking of evidence. So at this stage I am not inclined to pass any order of interim compensation.

So far as regards the income of the respondent, the petitioner has filed pay slip of respondent for the month of May, 2025. On the other hand the respondent has disclosed in his WO that he is drawing salary of Rs. 62,887/-. But he has not filed any affidavit on his assets and liabilities which is mandatory. I am not inclined to delay in passing order for the failure of the respondent to file his affidavit on assets and liabilities.

In such circumstance I am inclined to rely upon the document of petitioner regarding the income of the respondent.

It is the case of the petitioner that she has been residing at a rented house at Sonarpur for the purpose of study of her son for which she has to pay rent. The petitioner has prayed for residence order at the flat of the respondent which is situated at the address mentioned in the petition. The respondent has not challenged the fact of residing at a rented house. The respondent has also admitted the fact of purchasing the flat, but has mentioned that said flat is under construction. On careful perusal I find that the petitioner and respondent have never lived at the said flat. Moreover their share household is situated at 1<sup>st</sup> Gheri, Bhubannagar, PS-Kakdwip as appeared from the Domestic Incident Report. In such circumstance I am not inclined to pass any interim residence order at the flat of the respondent.

However it is admitted that the petitioner has been living at a rented accommodation at Sonarpur. Considering the study and schooling of the minor son of the petitioner, I am inclined to pass residence order in favour of the petitioner at Sonarpur.

Ld. Advocate for the respondent submitted that the petitioner is capable enough to earn her own livelihood and she is earning money by working as a private tutor. The respondent has not filed any document of income of the petitioner. Moreover, she is a mother of a young child and has been residing alone with the child, so it is difficult for her to join or search for a job. Therefore, I find urgency to pass an interim order in respect of

maintenance. Otherwise, the very purpose of section 23 of PWDV Act will be defeated by delay caused in course of trial.

Admittedly the respondent is a BSF Constable I have already discussed that I am inclined to rely on the pay slip filed by the petitioner regarding income of the respondent. It appears from the said pay slip that the gross pay of the respondent is Rs. 73,296/- per month.

Considering the facts and circumstances I am inclined to allow the petition u/s 23 PWDV Act in part and considering the income of the respondent and rising price of daily commodities, if the respondent be directed to pay to the petitioner Rs.12,000/- per month for the petitioner and Rs.5,000/- per month for the minor son, hence total Rs.17,000/- per month as interim monetary relief and Rs. 3000/- per month as rent if required none will be prejudiced.

Hence, it is

**ORDERED**

That the application for interim order u/s 23 of PWDV Act is allowed in part on contest against respondent without any cost.

The petitioner is entitled to get a sum of Rs.12,000/- per month for the petitioner and Rs.5,000/- per month for the minor son, hence total Rs.17,000/- per month as interim monetary relief from the respondent as interim monetary relief u/s 20 of the Protection of Woman from Domestic Violence Act 2005 from the date of filing of this case.

The respondent Basab Jana is directed to pay Rs.12,000/- per month for the petitioner and Rs.5,000/- per month for the minor son, hence total Rs.17,000/- per month as interim monetary relief to the petitioner from date of filing of this case, month by month by 7<sup>th</sup> day of each succeeding English calendar month till disposal of the interim relief petition.

The respondent is also directed to arrange for a alternative accommodation at the area of Sonarpur and to pay the rent and other expenses for the same, in alternative the respondent is directed to pay rent of Rs. 3000/- per month to the petitioner.

The respondent is also directed not to threaten or disturb the petitioner anyway.

Let a copy of this order be supplied to the parties free of cost as per section 24 of the Protection of Woman from Domestic Violence Act 2005.

To 29-12-2025 for evidence.

D/C by me

Sd/-  
ACJM-cum-CJSD, Kakdwip

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ACJM-cum-CJSD, Kakdwip