

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR**

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 60 OF 2026

Rajashad Shaikh
45 years of age, Service
Residing at H. No.322,
St Joaquim Road, Salcete, Margaon, Goa Petitioner

Vs.

1. Mrs. Rijvana Rajashad Shaikh
Age 45 years, Service
2. Miss. Kanij Fatima Razashad Shaikh
Age 12 years, Student
3. Master Mohmad Zayn Razashad Shaikh
Age 12 years, Student 2 & 3, Minor and represented
Through Respondent No.1,
All R/O Dattanagar, Koregaon,
Tal- Koregaon, District Satara
4. The State of Maharashtra,
Through Public Prosecutor,
Office at Kolhapur High Court,
Kolhapur, Maharashtra Respondents

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Mr. Agha Iftikhar (through vc) with Mr. Utkarsh Sawant (through vc) and
Mr. Sumit S. Dhanawade, Advocate for Petitioner.
Mr. Anand Shalgaonkar, APP for Respondent-State.

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CORAM : ABHAY J. MANTRI, J.
DATE : AUGUST 28, 2026

ORAL JUDGMENT:

1. Heard. **Rule.** Rule made returnable forthwith and heard finally, with the consent of the learned Advocates for the parties, at the admission stage.
2. Perused the record and the judgment relied upon by the learned Advocate for the Petitioner in *Rajnesh v. Neha and Anr.*¹ (for short "**Rajnesh**").
3. The Petitioner, being aggrieved by the order dated 19th December 2025 passed by the learned Judicial Magistrate First Class, Kopergaon, (for short the learned "**Magistrate**") below Exhibit-30, in Criminal Miscellaneous Application No. 257 of 2022, has invoked the jurisdiction of this Court under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, "**BNSS**") and has challenged the said order, whereby the learned Magistrate rejected the application filed by the Petitioner herein for seeking direction to the Respondent to deliver the interrogatories as contained in Annexure-I.
4. On 7th October 2022, the Respondent/Original Applicant filed Criminal Miscellaneous Application No. 257 of 2022 before the learned Magistrate, seeking maintenance under Section 125 of the Code of Criminal Procedure, 1973 (for short, "**Cr.P.C.**") against the Petitioner.

¹ AIR 2021 SC (Criminal) 729

5. The Petitioner appeared in the said proceedings and filed his reply. The Petitioner as well as the Respondent filed their respective affidavits before the learned Magistrate. Thereafter, on 6th November 2025, the Petitioner filed an Application under Order XI Rule 1 of the Code of Civil Procedure, 1908 (for short, “**C.P.C.**”), seeking direction to the Respondent to deliver the interrogatories as contained in Annexure-I. The Respondent filed a reply to the said Application. After considering the rival contentions, the learned Magistrate rejected the said Application at Exhibit-30. Being aggrieved by the said order, the Petitioner has preferred the present Writ Petition.

6. Learned Advocate for the Petitioner, during the arguments, has taken me through the Application filed by the Petitioner and the order passed by the learned Trial Court thereon. He submits that the order passed by the learned Magistrate apparently indicates non-application of mind, as the Application was pending before the learned Magistrate under Section 125 of the Cr.P.C. However, the learned Magistrate, while dealing with the same, erred in recording that the said application was filed under the provisions of the Protection of Women from Domestic Violence Act, 2005 (for short, the “**D.V. Act**”) and accordingly framed the point for consideration and passed the order.

7. He further submitted that the impugned order is contrary to the law laid down by the Hon'ble Supreme Court in **Rajnesh** (supra). During his submissions, he drew my attention to Clauses (a) and (f) (at page No.752 of the said judgment) of para 17 of the judgment, Enclosure-I (at page No.764) and, in particular, to Paragraph Nos.7, 8, 9 and Clause (G) of the said Enclosure (at page No.765). Therefore, he argued that, in view of the law laid down by the Hon'ble Supreme Court in **Rajnesh** (supra), the Petitioner had filed an application before the learned Magistrate seeking a direction to the Respondent to produce the relevant documents as per interrogatories, as set out in Annexure-I to the said Application, in terms of Order XI Rule 1 of the **C.P.C.** Therefore, he emphasised that, while passing the order, the learned Judge has not applied his mind and erred in recording that the Application was filed under the provisions of the D.V. Act and passed the impugned order. Hence, he urged that the same be set aside and the Petition be allowed.

8. In response, learned Advocate for Respondent No. 2 does not dispute the law laid down in **Rajnesh** (supra). However, he submitted that Respondent No. 2 undertakes to produce the bank account statements for the last financial year and Income Tax Returns for the last three years preceding the Application before the learned Trial Court and is also ready to file the declaration as contemplated in **Rajnesh** (supra). He fairly submitted that the learned Trial Court has erred in considering the Application under the

provisions of the D.V. Act instead of under Section 125 of the Cr.P.C., and submitted to the order of the Court.

9. Having heard the rival contentions of the parties and gone through the impugned order, the record and the law laid down by the Hon'ble Supreme Court in ***Rajnesh*** (supra), I find substance in the submissions of the learned Advocate of the Petitioner that the learned Judge did not apply his mind while dealing with the Application Exhibit 30. It is evident that Respondent No. 1 herein has filed the proceedings under Section 125 of the Cr.P.C., wherein the Petitioner has moved an Application below Exhibit-30, seeking a direction to the Respondent to produce the relevant documents as per interrogatories, as set out in Annexure-I to the said Application, in terms of Order XI Rule 1 of the C.P.C., in view of the law laid down by the Hon'ble Supreme Court in ***Rajnesh*** (supra).

10. The learned Judge, in Paragraph No.1, has observed that “the present application has been filed in the proceedings under the D.V. Act contending that such interrogation is necessary for the proper adjudication of the interim Application. Based on the averment in the Application, the learned Judge framed the following points for consideration, which read as under:

Sr. No.	Points for consideration	Findings
1)	Whether the Respondent is entitled to seek interrogatories (interrogation) <i>of the Applicant at the stage of interim proceedings under the Domestic Violence Act?</i>	No

2)	What order?	Application is rejected.
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11. It is pertinent to note that though the learned Magistrate has categorically observed that *the case law relied upon by the Petitioner, i.e. the Applicant, applies to the present Application*. Despite holding the same, the learned Magistrate has committed a blunder by ignoring the guidelines laid down therein and erred in rejecting the Application on the ground that it is not maintainable to seek an interrogation of the applicant at the interim stage. It is also observed that “*At the stage of deciding interim relief under section 23 of the D.V. Act, the Court is not expected to permit detailed interrogation, cross-examination, or discovery, as it would amount to conducting a mini-trial*”.

12. The recording of the said findings by the learned Magistrate appears to be contrary to the guidelines laid down by the Hon’ble Supreme Court in **Rajnesh** (supra). Thus, it is evident that the order passed by the learned Magistrate is ex facie against the guidelines and cannot be sustained in the eyes of law. On the other hand, the Application in question is squarely covered by the dictum and guidelines laid down in **Rajnesh** (supra).

13. In the light of the aforesaid discussion and the dictum and guidelines laid down in **Rajnesh** (supra), I find that the Petitioner has made out a case for invoking the inherent power of this Court. Therefore, in my

view, the impugned order needs to be set aside in exercise of writ jurisdiction.

14. However, a balance must be maintained while passing the order, as the test for determining maintenance in matrimonial disputes depends on the husband's financial status and the standard of living of the wife to which she was accustomed in her matrimonial home. At the same time, the wife's financial status/income must be taken into consideration while determining the question of maintenance.

15. In the wake of the above, in my view, the Petitioner is also required to be directed to follow the guidelines laid down in **Rajesh** (Supra).

16. Consequently, **the Petition is allowed as under.**

(i) The impugned order dated 19th December 2025 passed by the learned Magistrate below, Exhibit-30, in Criminal Miscellaneous Application No. 257 of 2022 is hereby **quashed and set aside.**

(ii) The Petition/husband as well as Respondent No. 1/wife are directed to follow the guidelines laid down in **Rajnesh** (supra), and to produce the relevant documents as per interrogatories/ as set out in Clauses (a) and (f) (at page No.752 of the said judgment) of para 17 of the judgment and as per Enclosure-I (at page No.764) and, in particular, to Paragraph Nos.7, 8, 9 and Clause (G) of the said Enclosure (at page No.765), in terms of Order XI Rule 1 of the Code of Civil Procedure.

17. Rule is made absolute in the above terms. No order as to costs.
18. Inform the concerned court accordingly.
19. Writ Petition is **disposed of**.

(ABHAY J. MANTRI, J.)