

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.11215 OF 2022

**VIVEKANAND MARUTI DHEKANE
VERSUS
USHA ALIAS VISHAKHA VIVEKANAND DHEKANE**

...
Mr. P. C. Mayure, Advocate for the Petitioner.

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CORAM : SANDEEP V. MARNE, J.

DATED : 11th NOVEMBER, 2022.

PER COURT:-

1. By the present petition the petitioner challenges the order dated 20.09.2022 passed by the Judge, Family Court, Osmanabad thereby awarding interim maintenance of Rs.3000/- per month to the respondent-wife under the provision of Section 24 of the Hindu Marriage Act.

2. Only reason cited for challenging the order of the Family Court is that the same is passed without filing of reply by the petitioner and without hearing him.

3. I have perused the records. The Family Court had directed the petitioner to file his say to the application on 18.02.2022. Despite that direction, the petitioner failed to file his reply opposing the application for considerable period of time.

4. It is the case of the petitioner that in connection with an independent offence, he came to be arrested on 13.05.2022 and came to be released on bail only on 20.09.2022. In the meantime, the matter appeared before the Family Court on 21.06.2022, when the application was kept for arguments on account of non filing of reply by the petitioner. The Family Court thereafter, passed 'no argument order' against the petitioner on 06.09.2022 and thereafter, proceeded to pass order dated 20.09.2022 awarding interim maintenance of Rs.3000/- per month to the wife.

5. In my opinion the petitioner had ample opportunity of filing his reply opposing the application for interim maintenance during the period from 18.02.2022 till date of his arrest on 13.05.2022. However, without any sufficient reason, he failed to file his reply. So far as the custody of the petitioner from 13.05.2022 to 20.09.2022 is concerned, the same was on account of the petitioner's own conduct for which the respondent cannot be blamed.

6. Even otherwise, a reasonable amount of interim maintenance of Rs.3000/- per month has been awarded by the Family Court to the wife, who is admittedly not earning any income. The Family Court has taken into consideration the contentions raised by the wife with regard to the income of the petitioner. If those contentions are taken into

consideration the income could be assessed at Rs.60,000/- per month. Despite this, the Family court has awarded substantially lower amount of Rs.3000/- per month to the wife. I have also gone through the order dated 20.09.2022 passed by the Additional Sessions Judge, Osmanabad granting bail to the petitioner. It appears that, the offence was registered against the petitioner alleging that he is running a restaurant named Mahalaxmi Idligraha in Osmanabad City. Considering these factors, I am of the view that the amount of interim maintenance of Rs.3000/- awarded by the Family Court is just and reasonable. No fruitful purpose would be served in remanding the matter.

7. Considering the above aspects, I do not find that any case is made out by the petitioner for interference by this Court in exercise of jurisdiction under Article 226/227 of the Constitution of India.

8. The petition is devoid of merits and the same is dismissed without any orders as to cost.

(SANDEEP V. MARNE)
JUDGE