

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR.

CRIMINAL APPLICATION (APL) NO. 642 OF 2023

APPLICANTS

- : 1. Sau. Namrata Dipak Chambhare
(Patil), Aged 29 years, Occ. :
Household.
2. Yashaswi D/o. Dipak Chambhare,
Aged 4 years, Occ. : Nil.
3. Kartiki D/o. Dipal Chambhare, Aged
about 2 years, Occ. : Nil
(Applicant No.1 for herself and for
Minors applicant Nos.2 and 3 as their
natural guardian mother)
- All applicants R/o. C/o. Ganesh
Shankarrao Dhotre, in front of
Hirulkar Petrol Pump, Kaulkhed,
Mangrulpir Road, Akola, Tq. and
District : Akola.

//VERSUS//

NON-APPLICANT : Dipak S/o. Rameshrao Chambhare
(Patil), Aged about 29 years,
Occupation : Business, R/o. Muktai
Nagar, Behind Bus-stand, Malkapur,
Tq. Malkapur, District : Buldhana.

Mr. V.R. Deshpande, Advocate for the Applicants.

Ms. Meera P. Kshirsagar, Advocate for the Non-applicant.

CORAM : G. A. SANAP, J.

DATED : 31st JULY, 2023.

ORAL JUDGMENT

Heard.

02] **Admit.** The application is heard finally with the consent of the learned advocates for the parties. Perused the record and proceedings.

03] In this application, the applicants have questioned the correctness of the order dated 3rd April, 2023, passed by learned Additional Sessions Judge, Akola, whereby learned Judge partly allowed the application at Exh.5 made by the non-applicant.

04] In view of the statements made by learned advocates for the parties across the bar, it is not necessary to state the facts in detail. Suffice to state that the order awarding the interim maintenance was challenged by the non-applicant in an appeal filed under Section 29 of the Protection of Women from Domestic Violence Act, 2005. The non-applicant was arrested on account of his failure to pay the arrears. Learned Judge, subject to deposit of Rs.1,00,000/- (rupees one lakh only) towards the arrears of maintenance, ordered the release of non-applicant from jail.

05] Learned advocates for the parties submitted that the appeal pending before the learned Additional Sessions Judge is otherwise ripe for hearing. Learned advocate for the applicants submitted that in view of the order passed by learned Additional Sessions Judge, the applicants have not been able to recover the arrears of maintenance.

06] In my view, considering the observations made by learned Additional Sessions Judge in the impugned order as well as the facts placed on record before me, it would be just and proper to modify the order passed by learned Additional Sessions Judge.

07] The non-applicant shall deposit 50% of the total arrears i.e. Rs.6,96,000/- (rupees six lakhs ninety six thousand only). 50% arrears be deposited within a period of one month. If the non-applicant fails to deposit 50% arrears within a period of one month, then he shall be dealt with in accordance with law.

08] In the facts and circumstances, hearing of the appeal is expedited. Learned Additional Sessions Judge is requested to dispose of the appeal within a period of two months from today.

09] The payment of 50% arrears shall be subject to the outcome of the appeal filed by the non-applicant before the learned Additional Sessions Judge.

10] The application is disposed of in the above terms.

(G. A. SANAP, J.)

Vijay