



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1535 OF 2025

Harish Prabhakar Sapakale,
Age : 39 Years, Occu : Service,
R/o. Chandani Chauk, Sawada,
Tq. Raver, Dist. Jalgaon

...PETITIONER

Versus

Seema Harish Sapakale,
Age : 35 Years, Occu : Household,
R/o. C/o. Daulat Laxman Suryawanshi,
At Shivaji Chowk, near Dhawshay Takay,
Dist. Nandurbar

...RESPONDENT

Mr. Patil Mangesh G., Advocate for the Petitioner.

CORAM : ABHAY J. MANTRI, J.

DATE : NOVEMBER 27, 2025

ORAL JUDGMENT :

1. The petitioner is assailing the order dated 06th October 2025, passed by the learned Additional Sessions Judge, Nandurbar, below Exhibit 1 in Criminal Miscellaneous Application No. 30 of 2025, whereby the delay of 100 days in filing the appeal was condoned, subject to deposit of 50% of the arrears of the maintenance amount granted by the learned Trial Court, and therefore, has preferred this petition.

2. Heard learned counsel for the petitioner. Perused the impugned judgment and record. I have also gone through the decisions relied upon by the learned counsel for the petitioner.

3. The *crux* of the arguments of the learned counsel for the petitioner is that the Court cannot impose a pre-requisite condition directing the petitioner to deposit 50% of the arrears of compensation amount. The petitioner has every right to challenge the order in appeal, and the condition of depositing 50% of the arrears cannot be imposed before the registration of the appeal.

4. To buttress his submissions, the learned counsel for the petitioner has relied upon the judgment of the Delhi High Court in *Sabina Sahdev and Ors. Vs. Vidur Sahde* (paragraph Nos. 1, 21, 25, 29 and 30), the judgment of the Kerala High Court in *Ramesh V. V. Vs. Jyothi Maruthiyodan & Anr.* (paragraph No.11) and the judgment of the Hon'ble Supreme Court in *Surendra G. Shankar & Anr. Vs. Esque Finamark Pvt. Ltd. & Ors* (paragraph No.9) and submitted that, in view of the law laid down in the said judgments, imposing a pre-requisite condition to deposit 50% of the arrears of compensation amount is illegal, and hence urged that the petition be allowed.

5. At the outset, I do not find any substance in his contention, as it is the mandatory duty of the petitioner to pay maintenance to his wife, even though she has obtained a divorce, and he cannot refuse to pay the same.

6. It is pertinent to note that it is an obligation of the husband to maintain his wife. He cannot be permitted to plead that he is unable to maintain her due to financial constraints as long as he is capable of earning.

Moreover, a judicial note can be taken that prices of essential commodities are escalating day by day. Therefore, it is difficult for the respondent to subsist without maintenance to meet her daily needs.

7. It is pertinent to note that the learned Judicial Magistrate First Class, by order dated 11th February 2025, directed the petitioner to pay maintenance of ₹10,000/- to the respondent from the date of the application. Therefore, it was incumbent upon the petitioner to comply with the said order; however, instead of complying with it, the petitioner preferred an appeal against the said order. Furthermore, the learned Additional Sessions Judge has merely directed the petitioner to deposit 50% of the arrears of maintenance amount granted by the Trial Court, before registration of the appeal, as a condition precedent. Hence, the petitioner is aggrieved by the said order.

8. It is not the case that the learned Additional Sessions Judge has directed the petitioner to pay the said amount to the respondent/original applicant. The direction is only to deposit the amount to demonstrate his bona fides and readiness and willingness to comply with the order, while challenging the order in appeal. Instead of showing such bona fides, the petitioner has assailed the said order before this Court, thereby indicating that he is unwilling to pay the maintenance amount payable to the respondent. Apart from that, the learned Sessions Court has directed him to deposit only 50% of the amount, not 100%. Therefore, in my view, it can

not be said that his rights are prejudiced by the said order. Accordingly, I find no merit in his contention.

9. *Besides*, in my view, the direction to deposit 50% of the arrears of amount cannot be termed a prerequisite condition for the registration of the appeal. On the contrary, as per the order of the learned Magistrate, the petitioner is bound to pay maintenance to the respondent, which he has failed to comply with. Therefore, the condition imposed by the learned Additional Sessions Judge to deposit 50% of the amount would not hamper his right to prosecute the appeal or challenge the impugned order before the Appellate Forum. As such, I do not find any substance in his contention in that regard.

10. I have gone through the judgments relied upon by the learned counsel for the petitioner. However, facts in those cases are different from the case in hand and, therefore, in my view, the law laid down in those judgments is hardly any assistance to the petitioner. Furthermore, the condition directing him to deposit 50% of the amount cannot be said to be harsh or so unreasonable as to make it impossible for the petitioner-husband to comply with the same. Similarly, it is not the case that the amount directed to be deposited is so large that he is unable to deposit it before the Court. As such, it would not be appropriate to interfere with the order impugned.

11. As a result, the petition, being bereft of merits, stands dismissed with costs of ₹ 10,000/-. The petitioner is directed to deposit the costs and 50% of the arrears of compensation amount, as directed by the learned Additional Sessions Court, before the learned Sessions Court within ***six weeks*** from today; failing which, the learned Additional Sessions Judge may pass appropriate orders to ensure compliance with this order.

12. Needless to clarify, the learned Additional Sessions Judge may consider his contention while dealing with the application for withdrawal of the said amount by the respondent and may pass the necessary orders in that regard.

(ABHAY J. MANTRI, J.)