HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 46569 of 2026

Chitranjan @ Chinku

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Applicant(s)	:	Amod Pandey, Krishna Kumar
Counsel for Opposite Party(s)	:	G.A.

Court No. - 72

HON'BLE DEEPAK VERMA, J.

1. Heard learned counsel for the applicant and learned A.G.A. for the State.

2. This application under Section 528 BNSS has been filed by the applicant with prayer to quash the recovery warrant as well as recovery dues dated 17.02.2026 Rs. 14,000/- pending against the applicant.

3. Learned counsel for the applicant submits that opposite party no.2 is wife of applicant and on account of some matrimonial dispute, opposite party initiated proceeding under Section 125 Cr. P.C on 22.06.2023 for interim maintenance and the same was allowed vide order dated 22.06.2023. For recovery of interim maintenance, opposite party no.2 moved application U/s 147 BNSS before trial court and trial court issued non bailable warrant dated 17.02.2026 against the applicant, in pursuance of order passed on 22.06.2023. Applicant's counsel placed reliance over the judgment passed by Hon'ble The Apex Court in the case of **Rajnesh vs. Neha & Another (2021)2 SCC 324**, non bailable warrant and arrest warrant cannot be initiated by the court for recovery of arrears and maintenance.

4. Learned counsel for the applicant submits that the order passed by the learned Principal Judge, Family Court, Mahoba is against the provision laid down by the Apex Court in ***Rajnesh vs. Neha & Another (2021)2 SCC 324,*** wherein it has been directed that the enforcement/execution of

order of maintenance, may be enforced under Section 28A of the Hindu Marriage Act, 1956; Section 20(6) of the D.V. Act; and Section 128 of Cr.P.C., as may be applicable. The order of maintenance may be enforced as a money decree of a civil court as per the provisions of the C.P.C., more particularly Sections 51, 55, 58, 60 read with Order XXI of C.P.C.

5. It is further submitted that the impugned order has been passed to enforce the recovery of arrears of maintenance by issuing recovery warrant as well as arrest warrant against the applicant without following the procedure as provided in the Civil Procedure Code.

6. The matter is related to settled position of law. There is no other point for consideration except issuing recovery warrant as well as arrest warrant to recover the arrears of maintenance, due to this reason, the opportunity to call the counter affidavit from the opposite party no. 2 is dispensed with.

7. In view of the above facts and circumstances, the application is **partly allowed** and the order dated 17.02.2026, is hereby **quashed**.

8. It is made clear that the court concerned may proceed to enforce or recover the arrears of maintenance amount as money decree of a civil court as per provisions of the Code of Civil Procedure as per the law laid down by the Supreme Court in Rajnesh (supra).

(Deepak Verma,J.)

October 24, 2026
T.S.

Digitally signed by :-
TRIBHUWAN SINGH
High Court of Judicature at Allahabad