HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 47765 of 2026

Ankit Kumar Singh

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Applicant(s)	:	Anurag Shrivastava
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 impugned recovery warrant/N.B.W. order dated 22.01.2026 passed by learned Additional Principal Judge Family Court-3rd, Jaunpur in case no. 2406 of 2024 (Niharika Vs Ankit) under section 147 B.N.S.S., Police Station Jalapur, District Jaunpur, pending in the court of learned Additional Principal Judge Family Court-3rd, Jaunpur.

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 no.2 initiated proceeding U/s 125 Cr.P.C. for interim maintenance and the same was allowed vide order dated 04.11.2024. For recovery of interim maintenance, opposite party no.2 moved application U/s 147 BNSS before trial court and trial court issued recovery warrant as well as non-bailable warrant against the applicant, in pursuance of order passed on 22.1.2026. 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,** recovery 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, Gautam Buddh Nagar 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 non-bailable 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 22.01.2026, 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 29, 2026
Gss

Digitally signed by :-
GIRAJA SHANKER SHARMA
High Court of Judicature at Allahabad