



HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 44603 of 2025

Asif Ali

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Abhay Raj Singh
Counsel for Opposite Party(s)	:	G.A.

Court No. - 81

HON'BLE ACHAL SACHDEV, J.

1. Ms. Preeti Dwivedi, Advocate, appearing on behalf of the opposite party no.2 and states that she has received instructions from her client yesterday to file vakalatnama on her behalf and prays to adjourned the matter for the day.
2. Heard Sri Abhai Raj Singh, learned counsel for the applicant, Ms. Preeti Dwivedi, learned counsel for opposite party no.2, learned AGA for the State and perused the material on record.
3. Present application u/s 528 BNSS has been filed by the applicant with prayer to set-aside the the impugned order dated 04.10.2025, passed by the learned Principal Judge, Family Court, Varanasi, in Case No.939 of 2025 (Farhin Khan Vs. Asif Ali), under section 147 of BNSS (Old u/s 128 Cr.P.C.), by which Issued recovery warrant of maintenance amount, as awarded by learned Family Court, Varanasi of Rs.6,000/- per month, vide ex-parte judgment and order dated 02.07.2025, in Case No.1275 of 2022(Farhin Khan Vs. Asif Ali), under section 125 Cr.P.C. and also direct the Family Court, Varanasi to decide the application dated 06.05.2025, filed by the applicant under section 145(2) BNSS (U/s 126(2) Cr.P.C.), expeditiously.
4. Learned counsel for the applicant states that applicant is the husband of opposite party no.2. The learned Family Court, Varanasi has deliberately

shown the absence of the applicant, while applicant is present alongwith his counsel and subsequently passed ex-parte order of maintenance against the applicant. The applicant filed recall application to recall the ex-parte order of granting maintenance. The applicant also filed an application under section 126(2) Cr.P.C. and during the pendency of the said application, impugned recovery order dated 04.10.2025 was passed against the applicant.

5. In the circumstances matter requires consideration.

6. Learned counsel for the opposite party no.2 as well as learned AGA for the State may file counter affidavit within a week. Rejoinder affidavit be filed by the applicant within one week thereafter.

7. Put up this case as fresh on 20.05.2026 as fresh alongwith connected Application U/s 528 BNSS No.44642 of 2025 (Asif Ali Vs. State of U.P. and Another).

8. Till then the operation of the impugned recovery order dated 04.10.2025, passed by the learned Principal Judge, Family Court, Varanasi, in Case No.939 of 2025 (Farhin Khan Vs. Asif Ali), under section 147 of BNSS(128 Cr.P.C.), shall remain stayed.

April 29, 2026
VKG

(Achal Sachdev,J.)