



**HIGH COURT OF JUDICATURE AT ALLAHABAD**

**APPLICATION U/S 528 BNSS No. - 48229 of 2025**

Shailendra Arya

.....Applicant(s)

Versus

State Of U.P. And 2 Others

.....Opposite  
Party(s)

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Counsel for Applicant(s) : Sunil Kumar Tripathi  
Counsel for Opposite Party(s) : G.A.

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**Court No. - 71**

**HON'BLE RAJIV LOCHAN SHUKLA, J.**

1. Heard Shri Ram Kumar Dubey, Advocate holding the brief of Shri Sunil Kumar Tripathi, Learned counsel for the applicant, Shri Paritosh Kumar Malviya, Learned AGA for the State and Shri Anoop Trivedi, Learned Additional Advocate General for the State.
2. The issue, which arises for consideration before this Court, is whether the services of the police can be employed by the courts for execution of recovery warrants in proceedings under Section 125 Cr.P.C./144 BNSS.
3. After some arguments, Shri Dubey points out that the procedure for recovery provided under the Code of Criminal Procedure and the BNSS is similar and refers to Section 421 of the Cr.P.C. and Section 461 of the BNSS. For ready reference under Section 421 Cr.P.C. and Section 461 BNSS are being quoted herein below:-

*"Section 421 Cr.P.C.- Warrant for levy of fine-*

*(1) When an offender has been sentenced to pay a fine the Court passing the sentence may take action for the recovery of the fine in either or both of the following ways, that is to say, it may-*

*(a) issue a warrant for the levy of the amount by attachment and sale of any moveable property belonging to the offender;*

*(b) issue a warrant to the collector of the district, authorising him to realise the amount as arrears of land revenue from the movable or immovable property, or both of the defaulter:*

*Provided that, if the sentence directs that in default of payment of the fine, the offender shall be imprisoned, and if such offender has undergone the whole of such imprisonment in default, no Court shall issue such warrant unless, for special reasons to be recorded in writing, it considers it necessary so to do, or unless it has made an order for the payment of expenses or compensation out of the fine under section 357.*

*(2) The State Government may make rules regulating the manner in which warrants under clause (a) of Sub-Section (1) are to be executed, and for the summary determination of any claims made by any person other than the offender in respect of any property attached in execution of such warrant.*

*(3) Where the Court issues a warrant to the Collector under clause (b) of Sub-Section (1), the Collector shall realise the amount in accordance with the law relating to recovery of arrears of land revenue, as if such warrant were a certificate issued under such law;*

*Provided that no such warrant shall be executed by the arrest or detention in prison of the offender.*

**Section 461 BNSS- Warrant for levy of fine**

*(1) When an offender has been sentenced to pay a fine, but no such payment has been made, the Court passing the sentence may take action for the recovery of the fine in either or both of the following ways, that is to say, it may—*

*(a) issue a warrant for the levy of the amount by attachment and sale of any movable property belonging to the offender;*

*(b) issue a warrant to the Collector of the district, authorising him to realise the amount as arrears of land revenue from the movable or immovable property, or both, of the defaulter:*

*Provided that, if the sentence directs that in default of payment of the fine, the offender shall be imprisoned, and if such offender has undergone the whole of such imprisonment in default, no Court shall issue such warrant unless, for special reasons to be recorded in writing, it considers it necessary so to do, or unless it has made an order for the payment of expenses or compensation out of the fine under section 395.*

*(2) The State Government may make rules regulating the manner in which warrants under clause (a) of sub-section (1) are to be executed, and for the summary determination of any claims made by any person other than the offender in respect of any property attached in*

*execution of such warrant.*

*(3) Where the Court issues a warrant to the Collector under clause (b) of sub-section (1), the Collector shall realise the amount in accordance with the law relating to recovery of arrears of land revenue, as if such warrant were a certificate issued under such law:*

*Provided that no such warrant shall be executed by the arrest or detention in prison of the offender."*

4. Shri Dubey contends that the manner of recovery that is provided in the Cr.P.C. and the BNSS is restricted to issuance of certificate to the Collector for recovery as arrears of land revenue from the movable and immovable property of the person directed to pay. Shri Dubey further submits that so far as the recovery from movable property alone is concerned, no specific mode has been provided in the Cr.P.C./BNSS. He submits that sub section 2 of Section 461 of the BNSS provides that the State Government may make rules regulating the manner, in which warrants under clause (a) of sub section (1) are to be executed, which is specifically with respect to attachment and sale of movable property belonging to the offender and such provision is an exact representation of the earlier provision under Section 421 Cr.P.C.

5. Shri Anoop Trivedi, Learned Additional Advocate General seeks time to apprise this Court of any rules that may have been framed under the above-mentioned provision and if not then the status regarding when such rules shall be framed.

6. Put up as fresh on 18.02.2026 at 2 PM.

**(Rajiv Lochan Shukla,J.)**

**February 13, 2026**

A. Pandey