

**Sunil Kumar vs State of Karnataka**

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**Court :** Karnataka

**Decided On :** May-26-2026

**Judge :** R. Nataraj

**Appeal No. :** CRL.P/7404/2026

**Appellant :** Sunil Kumar

**Respondent :** State of Karnataka

**Judgement :**

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IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 26TH DAY OF MAY, 2026 BEFORE THE HON'BLE  
MR. JUSTICE R. NATARAJ CRIMINAL PETITION NO. 7404 OF 2026  
BETWEEN:

1. SUNIL KUMAR S/O MARIYAPPA AGED ABOUT 32 YEARS,  
R/AT.104, GANGA BLOCK BDA, JNANBHARATHI LAYOUT, MYSORE  
ROAD, KENGERI, BANGALORE - 560 060.
2. KALYANI W/O RAJU AGED ABOUT 30 YEARS R/AT SATANOORU  
VILLAGE, KASABA HOBLI, MANDYA, KARNATAKA - 571 402.

3. ANIL KUMAR Digitally S/O MAYAPPA signed by AGED ABOUT 34 YEARS HEMALATHA

J R/AT NO.104, GANGA BLOCK Location:  
OF KARNATAKA BENGALURU CITY - 560 059.

4. MAYAPPA S/O LATE BETTAIAH AGED ABOUT 60 YEARS R/AT SATANOORU VILLAGE, KASABA HOBALI, MANDYA, KARNATAKA - 571 402. PETITIONERS (BY SRI. KEMPARAJU, ADVOCATE) -2- AND:

1. STATE OF KARNATAKA BY KENGERI POLICE STATION, REP. BY ITS PUBLIC PROSECUTOR, HIGH COURT COMPLEX, BENGALURU - 560 001.

2. SMT. LATHA R W/O NAGARAJU G.N, AGED ABOUT 38 YEARS NO.1, 10TH GANGA BLOCK JNANABHARATHI ENCLAVE, BDA APARTMENT, KENGERI, BENGALURU CITY, KARNATAKA - 560 060. RESPONDENTS (BY SMT. WAHEEDA M.M., HIGH COURT GOVERNMENT PLEADER FOR RESPONDENT NO.1) THIS CRL.P IS FILED U/S.439 (FILED U/S.483 BNSS) OF

CR.P.C PRAYING TO ENLARGE THE PETITIONER ON REGULAR BAIL IN SPL.C.C.NO.839/2021 (CRIME NO.148/2021) OF THE RESPONDENT KENGERI POLICE FOR THE OFFENCE P/US/ 363, 376 OF IPC AND SEC. 4, 6 OF POCSO ACT AND SEC.9, 10, 11 OF CHILD MARRIAGE ACT OF CHILD MARRIAGE ACT PENDING ON THE FILE OF THE HONBLE ADDL CITY CIVIL AND SESSIONS JUDGE FTSC V BENGALURU.

**THIS PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER**

WAS MADE THEREIN AS UNDER: -3- CORAM: HON'BLE MR. JUSTICE R. NATARAJ

**ORAL ORDER**

The petitioners have challenged the correctness of an

**order dated 21.05.2026 passed by the Additional City Civil and**

Sessions Judge, FTSC-V, Bengaluru in Spl.C.C.No.839/2021, by which an application filed by them under Section 70(2) of Cr.P.C. was rejected.

2. The petitioners were accused of offences punishable

under Sections 363 and 376 of IPC, Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012 and Sections 9, 10 and 11 of the Prohibition of Child Marriage Act,

2006. The petitioners were released on bail. Later after charges

were framed, the case was set down for trial. When the trial was underway, the petitioners did not appear and they did not file any application for dispensing their presence. The Trial Court, therefore, issued NBWs against the petitioners, which were from time to time. However, the petitioners continued to remain absent from the proceedings and on 01.04.2026 too,

they were absent and no application was filed seeking dispensation of their appearance. Hence, non-bailable warrants -4- were issued against them. When the case was listed on 08.04.2026, no application was filed to recall the warrants issued against them. Therefore, the petitioners were arrested and remanded to judicial custody. Later, they filed an application under Section 70(2) of Cr.P.C., to recall the warrants, but the same stood rejected. The petitioners then filed an application under Section 439 of Cr.P.C. The Trial Court

**held that a repeat application under Section 439 of Cr.P.C. is**

not maintainable in view of an order passed by this Court in CrI.P.No.4488/2016. The petitioners are therefore before this Court challenging the order passed by the Trial Court rejecting their application under Sections 70(2) and 439 of Cr.P.C.

3. Learned counsel for the petitioners submitted that

the petitioners could not appear before the Court due to a reason beyond their control. He submits that the petitioners will henceforth appear before the Court on all dates of hearing without fail. Therefore, they pray that the order passed by the Trial Court be set aside and an opportunity be granted to the petitioners to participate in the proceedings.

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4. Learned High Court Government Pleader on the

other hand submitted that the order sheet of the Trial Court would show that the petitioners have continuously remained absent and therefore, the trial in the case is hampered. She therefore submits that it is imperative that the petitioners are reined in by ensuring that they appear before the Court.

5. In view of the fact that the Trial Court had already

enlarged the petitioners on bail, it would be too inequitable to keep them behind bars in the garb of executing the NBWs issued against them. Now that the petitioners have appeared before the Court and have undertaken that they will appear on all dates of hearing without seeking for exemption, it would be appropriate to direct the release of the petitioners. However, this cannot be without any condition, as the trial in the case is hampered and the attempts made by the prosecution to examine the witnesses have been spurned.

6. In that view of the matter, this petition is allowed. The impugned order dated 21.05.2026 passed by the Additional City Civil and Sessions Judge, FTSC-V, Bengaluru in -6-

Spl.C.C.No.839/2021 rejecting the application filed by the petitioners under Section 439 of Cr.P.C. is set aside and the warrants issued against the petitioners are recalled.

7. Consequently, the petitioners are directed to be

released, subject to the condition that they pay cost of Rs.5,000/- (Rupees Five Thousand only) each payable to any witnesses, who could not be examined due to

the default in appearance of the petitioners. They shall also undertake to appear before the Court on all dates of hearing without fail.

8. It is made clear that in the event, the petitioners fail to appear before the Court on all dates of hearing, the Trial Court is directed to proceed in accordance with law. Sd/- (R. NATARAJ) JUDGE SJK List No.: 1 SI No.: 6

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