

**IN THE COURT OF APPEAL OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA**

In the matter of a Revision Application in terms of Article 138 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

Gamage Maneesha Madhuwanthi Gamage,  
208/1, Sarala Pathana, Pitiya Kumbura,  
Welimada.

**Petitioner**

**Court of Appeal Revision**

**Application No.**

**CA/CPA/129/2020**

**Vs.**

Hon. Attorney General,  
Attorney General's Department,  
Colombo 12.

**Complainant - Respondent**

**High Court Homagama Case**

**No : HC 58/2019**

**And**

Aguru Kankanamge Priyan  
Bakmeedeniya  
(Presently in Monaragala Prisons)

**Accused**

**Before** : **Hon. Justice Menaka Wijesundera**  
**Hon. Justice Neil Iddawala**

**Counsel** : Nayantha Wijesundara instructed by Chamali  
Ranathunga for the Petitioner.  
Chathuri Wijesuriya, SC for the Hon. AG.

**Decided on** : 03/05/2021

**Hon. Justice Menaka Wijesundera**

The instant application for Revision has been filed to revise the order dated 23/06/2020 of the learned High Court judge of Homagama.

The Suspect in the instant application had been taken into custody for being in possession of less than 1g of heroin. The Hon. Attorney General has indicted the Suspect Petitioner for being in possession of heroin and trafficking of heroin less than 1g. The Counsel for the Petitioner states that the Petitioner had been in remand for nearly 1 ½ years upon service of indictment without the trial commencing.

The State Counsel states that the trial has been fixed for today and for Friday but considering the situation in the country, the State Counsel concedes that the trial will not be taken up. When a party files a Revision application, the party has to state exceptional circumstances before this Court in order to obtain bail under the Act under which the Petitioner had been taken into custody. The exceptionality in the instant case according to the Petitioner's Counsel is the quantity of heroin, the time period in remand without the trial commencing and especially the situation in the country plagued by the covid-19 pandemic, however the State Counsel brings to the notice of this Court that the Petitioner has 12 previous convictions of different nature, nevertheless considering the covid-19 pandemic which is plaguing the whole country and endangering the health situation of the inmates of the Prisons, this Court decides

to set aside the Order dated 23/06/2020 of the learned High Court Judge of Homagama and enlarge the Suspect on bail.

- 1) The Suspect is enlarged on Rs. 50,000.00 cash bail with two sureties to the value of Rs. 100,000.00 each.
- 2) The Petitioner Suspect is instructed to report to the Piliyandala Police Station on every 2<sup>nd</sup> and 4<sup>th</sup> Sunday of every month.

The Registrar of this Court is instructed to communicate this order to the Registrar of the High Court of Homagama.

The instant application for Revision is hereby allowed.

**JUDGE OF THE COURT OF APPEAL**

**Hon. Justice Neil Iddawala**

I agree.

**JUDGE OF THE COURT OF APPEAL**

NS/-