

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

In the matter of an Application for
bail under Section 10 (1) (a) of the
Assistance to and Protection of
Victims of Crime and Witnesses Act
No.4 of 2015 read along with Bail
Act No. 30 of 1997.

The Officer in Charge

Police Station

Rajanganaya.

COMPLAINANT

Vs.

1. Singapuliyage Suresh Chathuranga
Wijethilaka.

70, Track 11, Gemunupura,
Anuradhapura.

2. Wickramapalage Malith Susinidu
Piyumal Wickramapala.

Rajanganaya, Track 11, Gemunupura.

3.Pihiledeniyegedara Pathum
Sanjaya Disanayake.

Track 11, Rajanganaya,

Gemunupura.

SUSPECT

AND NOW BETWEEN

Pihiledeniyagedara Pathum

Court of Appeal Case No:

CA/ BAIL/ 26 / 21

MC Thambuttegama Case No:

B 2026 / 20

Sanjaya Dissanayake
Track 11, Rajanganaya,
Gemunupura.

3RD SUSPECT-PETITIONER

Vs

1. The Officer in Charge Police
Station,
Rajanganaya.

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

RESPONDENTS

Before: Menaka Wijesundera J.

Neil Iddawala J.

Counsel: Migara Doss for the
Petitioner.

Erandi Dassanayake SC for
the state.

Argued on – 02.02.2022

Decided on – 07.03.2022

MENAKA WIJESUNDERA J.

The instant applications for revisions has been filed by the third suspect petitioners (petitioner) under the provisions of the Assistance of Victims and Witnesses Act no 4 of 2015.

On 23.9.2020 the Rajangana police have conducted a raid on cannabis in the residence of SisilasiriJayawardene and Sheehan Chamikara Jayewardene and had taken the two in to custody.

Hence according to the version of the petitioner they had visited the police station to see as to what kind of assistance can be rendered to the above mentioned suspects as they had been friends. According to the version of the petitioners once they attempted to speak to the officers on duty it had ensued to be an argument between the two parties.

Thereafter the police had arrested the petitioners,

The Counsel appearing for the respondents have stated that the petitioner and the other accused had threatened the police officers and had said that they would be killed in due course. As such the respondents moved that the petitioner and the other accused had the audacity to walk in to a police station and threaten the officers on duty with death which displays their scant disregard for the due administration of justice.

The petitioner stated that the position put forward by the respondents is not plausible for three lay people to be threatening the officers on duty inside the premises of a police station.

The respondents further stated that the indictments against the petitioners have been forwarded.

According to the provisions of the above mentioned act offences have been defined under sections 8 and 9 of the act and bail had been considered under section 10 of the act which says that only under exceptional circumstances the Court of Appeal may enlarge the suspects on bail.

The term exceptional has not been defined in the act but our legal luminaries have defined the term exceptional in many of the decided cases and it has been held that the exceptionality defers from case to case which leaves a wide discretion to the judges. But it has been held that the discretion should not be used capriciously.

As such in the instant matter the exceptionality urged by the petitioners is the improbability of the incident.

But this Court has to take serious note of the complaint of the respondents because it clearly is an interference with due administration of the criminal justice system.

Hence as the indictments against the petitioners have already been forwarded, this Court sees no reason to enlarge the petitioner on bail but this Court directs the relevant High Court Judge to expedite the matter as per the provisions of the act.

As such this Court sees no exceptional reason to enlarge the petitioner on bail.

Judge of the Court of Appeal.

I agree.

Neil Iddawala J.

Judge of the Court of Appeal.

