

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

In the matter of an Application for Bail Under and in Terms of Section 10 [1] of The Act No. 4 of 2015, the Act for Assistance to and Protection of Victims of Crime and Witnesses.

The Application for Bail No.  
**CA/BAL/36/2021**

The Magistrates' Court of  
Matara No: BR 999/21

Bulathwaththa Kankanage Buddima  
Kaulshalya, Dozer Kanda, Kekunadura  
(Presently in the Remand Prison of  
Matara)

**Suspect – Petitioner**

**Vs.**

1. Officer – in – Charge,  
The Police Station,  
Gandara.

**Complainant – Respondent**

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

**Respondent**

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

Counsel : Rohana Deshapriya with Eranga Karunanayaka  
Substituted – Petitioner.  
Erandi Dassanayaka, SC for State.

Decided on : 29 / 03/ 2022.

**Hon. Justice Menaka Wijesundera,**

Instant matter has been filed to obtain bail for the suspect petitioner under the provisions of the **Assistance to and Protection of Victims of Crime and Witnesses Act No. of 2015.**

On 20/12/2022 the suspect Petitioner had been taken into custody for committing offences under sections 354,364 of the Penal Code. Upon the Suspect being produced before the Magistrate he had been bailed out. The victim had been below the age of 16 and the suspect had been 17 years at the time of the said offences.

According to the submissions of the Counsel for the petitioner, once the petitioner was bailed out he had received numerous requests from the Victim indicating her problems with the parents. Therefore, the petitioner had gone to the house of the victim on the invitation of the victim herself, according to the submissions of the counsel for the petitioner.

During this visit an argument had erupted between the petitioner and the Victim's father and according to the counsel for the petitioner the victim's family had complained against the suspect and 3 cases had been filed against him.

But the counsel for the Respondents contradict this position and states that the victim has very clearly told the suspect not to come to her house which is reflected in the statement of the victim marked as "R5", she further states that the Victim's father had sustained injuries during this incident.

The counsel for the petitioner says that the suspect had been in remand for the current matter for nearly a year and he had not threatened any witness in the substantive matter. But the

Counsel for the Respondents contradicts that position and is objecting to the instant application for bail.

The indictment for the instant matter has not been forwarded and even the IBS are not forwarded to the Attorney General.

According to the provisions of the instant Act under which the petitioner had been taken into custody, offences are defined under section 8 and 9 of the Act. If a suspect is to be enlarged on bail, it is considered under section **10(01)(a)** of the Act which says that exceptional circumstances should be pleaded by the petitioner to obtain bail.

In the instant matter the exceptionality we see is the law enforcing authorities have failed to conclude investigations so far which indicates that finality to the proceedings against the petitioner is not foreseen in the near future. At this point, this Court takes into consideration section 10(2) of the Act which has stated very clearly that matters under this Act should be given precedence over others.

Therefore, in the circumstances, this Court thinks it is only fair to enlarge the suspect petitioner on bail on the following conditions,

01. A cash bail of Rs. 25,000/-
02. 2 sureties to the value of 50,000/- each.
03. The suspect to report to the relevant Police Station on every last Sunday of the month.

04. The suspect is severely warned not to interfere with the witnesses of the substantive matter and if it is reported, the instant bail order will be cancelled.

As such the instant application for bail is allowed. The Registrar of this Court is directed to convey the instant order to the Magistrate's Court of Matara.

Bail application allowed.

**JUDGE OF THE COURT OF APPEAL**

**Hon. Justice Neil Iddawala,**

I agree.

**JUDGE OF THE COURT OF APPEAL**

KC/-