

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

**In the matter of a Revision Application
under and in terms of the Article 138
of the Constitution read together with
section 364 of the Code of Criminal
Procedure Act No.15 of 1979.**

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

Complainant

Court of Appeal (Revision
Application)
CA (PHC) APN 0022/2025

High Court of Panadura
Case No.
HC 4267/22

Magistrate Court of
Moratuwa Case No.
B 2221/18

Vs.

Wanni Aarachchige Dinesh Perera alias
Sana,
No.231/8,
Thewaththa Road,
Koralaima,
Gonapala.

Accused

AND NOW BETWEEN

Wanni Aarachchige Dinesh Perera alias
Sana,

No.231/8,
Thewaththa Road,
Koralaima,
Gonapala.

Accused-Petitioner

Vs.

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

Complainant-Respondent

The Officer-in-Charge,
Police Station,
Angulana.

2nd Respondent

Before: **B. Sasi Mahendran. J,**
 Amal Ranaraja. J,

Counsel: Neranzan Jayasinghe with Randunu Heellage and Imangsi
Senerath for the Petitioner.

Oswald Perera, S.C. for the Respondents.

Argued on: 06.08.2025

Judgment on: 11.09.2025

ORDER

AMAL RANARAJA, J.

1. The Accused-Petitioner (hereinafter referred to as the “Petitioner”) has been arrested on November, 08 2018, and thereafter named a suspect at the Moratuwa Magistrates Court case number B 222/18. The petitioner has been accused of possessing and trafficking 75.130 grams of heroin. As the suspect, the petitioner has filed an application to be enlarged on bail with the High Court in Panadura.
2. Upon reviewing the application, the High Court has not granted bail to the petitioner. In light of this decision, the petitioner has filed a revision application regarding the High Court’s order dated July 02,2020 in the bail application, HCBA 95/2019. The Court of Appeal has conducted an inquiry and ultimately granted bail to the petitioner, on July 13, 2021.
3. Subsequently, an indictment has been forwarded to the High Court in Panadura, in which the petitioner has been named the accused. When the matter had come up before the High Court to be fixed for trial, the petitioner has absconded. As a result, the Court has decided to conduct the trial in absentia and issued a warrant for the petitioner’s arrest.
4. However, prior to the start of the prosecution’s witness hearings, the petitioner has been apprehended and brought before the relevant High Court. Upon the commencement of the proceedings, the petitioner’s further applications for bail have been denied.

5. Aggrieved by these decisions, the petitioner has filed the instant application for revision with this Court, seeking to have the high court's orders denying his bail applications set aside and to be granted bail.
6. The Learned Counsel for the petitioner has drawn attention of this Court to section 5 of the Poisons, Opium, and Dangerous Drugs (Amendment) Act No. 41 of 2022. It is contended that, the petitioner has been detained in custody for more than 12 months, which renders the disputed orders illegal.
7. The petitioner has been arrested in 2018, prior to the enactment of the above mentioned amendment, which has been certified on November 23, 2022. Therefore, it is the position of the Learned State Counsel that the provisions of the Amendment Act should not be applied retroactively to the petitioner's case.
8. Legal principles dictate that new substantive laws do not have retroactive effect unless explicitly stated. In this instance, the absence of any such provision within the Amendment Act suggest that it should not be applicable to situations that arose prior to its enactment.

“All laws which affect substantive rights generally operate prospectively and there is a presumption against their retrospectivity if they affect vested rights and obligations unless the legislative intent is clear and compulsive. Such retrospective effect may be given where there are express words giving retrospective effect or where the language used necessarily implies that such retrospective effect is intended. Hence, the question whether a statutory provision has retrospective effect or not depends primarily on the language in which it is couched. If the language is clear and unambiguous effect will have to be given to the provision in question in accordance with its tenor. If the language is not clear, then the court has to decide whether in the light of the surrounding circumstance retrospective

effect should be given to it or not.” [vide Punjab Tin Supply Company Ltd vs. Central Government AER 1984 SC 87]

9. Further, the petitioner has been granted bail by the Court of Appeal contingent upon the condition that the appellant must present himself in Court when directed to do so.
10. However, the petitioner has breached this condition. Although the appellant has put forth reasons for his absence during the scheduled Court appearances, the justifications are neither cogent nor convincing.
11. In light of this, the matters presented before this Court by the petitioner do not shock its conscience. Therefore, the Court has decided not to issue formal notice to the respondents and to dismiss the instant application.

Application dismissed.

12. I make no order regarding costs.
13. The Registrar of this Court is directed to send a copy of this order to the *High Court of Panadura* for necessary information.

Judge of the Court of Appeal

B. SASI MAHENDRAN, J.

I agree,

Judge of the Court of Appeal