

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

In the matter of an application for Bail under and in terms of Article 138(2) of the Constitution of the Democratic Socialist Republic of Sri Lanka read with Section 15(b) of the Prevention of Terrorism (Temporary Provisions) (Amendment) Act No. 12 of 2022.

Court of Appeal

Dhammika Fernando

Application No:

No. 1077, Amaragoda Road,

CA/Bail /0476/25

Malabe.

Petitioner

Magistrate Court of Colombo Vs.

Case No. 29553/03/24

1. K.N.O Perera
Officer In-Charge
Counter Terrorism and Investigation
Division,
First Floor, Old Police Headquarters
Building,
Colombo-01.
2. Gayan Kumara
Officer-in-Charge
Investigation Division 3,
Counter Terrorism and Investigation
Division,

First Floor, Old Police Headquarters
Building,
Colombo-01.

Complainant- Respondents

The Attorney General
Attorney General's Department
Colombo-12.

Respondent

Ginuka Kithara

Suspect-Respondent

BEFORE

: **P. Kumararatnam, J.
Pradeep Hettiarachchi, J.**

COUNSEL

**Saliya Peiris, PC with Kaneel
Maddumage instructed by Praveen
Premathilaka for the Petitioner.
Vishva Wijesuriya, SC for the
Respondents.**

ARGUED ON

: **22/01/2026.**

DECIDED ON

: **30/01/2026.**

ORDER

P.Kumararatnam,J.

The Petitioner filing this Application has invoked the jurisdiction of this Court to grant bail to the Suspect upon suitable condition as this Court consider appropriate.

The Suspect is the 5th Suspect in the case bearing No. B/29553/03/24 of the Magistrate Court of Colombo.

The 5th Suspect (Hereinafter referred to as the Suspect) was arrested on 28.10.2024 by the Counter Terrorism and Investigation Division for allegedly aiding and abetting committing offences under Section 2(1) (h), 3(a), 3(b), 5(a) and 5(b) of the Prevention of Terrorism Act No.48 of 1979. Thereafter he was detained under a detention order said to have been issued under Section 9(1) of the Prevention of Terrorism (Temporary Provisions) Act No.48 of 1979. It was alleged that the Suspect had aided, abetted or conspired in any terrorist activity or concealed any information from security forces.

According to the Petitioner, the Suspect is 24 years old and has been living with his defector partner. He is the sole director of an event organizing company. The Suspect is the sole breadwinner of the Petitioner's family. The sister of the Suspect is doing her higher education at a private University.

At present the Suspect was diagnosed with an eye condition while he was detained in Boossa Prison and accordingly, on the request of the Suspect, he was referred to the Eye Clinic of Karapitiya Teaching Hospital. There, he had undergone treatment under an eye surgeon. The eye Surgeon has recommended a surgery in his right eye. Accordingly, the Suspect had underwent an eye surgery on 07.10.2025.

When the Petitioner channelled the eye surgeon on 03.10.2025, and 06.10.2025, the eye surgeon informed that the above eye condition of the Suspect is critical and if the Suspect does not undergo the relevant surgical procedures and post-operative treatments, the vision in the right eye of the Suspect could be reduced or there is a danger that the Suspect could completely lose vision in his right eye.

Due to the several eye conditions, the Suspect had undergone two more surgeries on 17.10.2025 and 28.10.2025. Due to prison restrictions,

the Petitioner was unable to obtain the relevant medical reports from the prison. To substantiate her claim, the Petitioner has annexed documents marked as P5, P6(a and b), P7 and P7(a and b).

Although a bail application was filed in the High Court of Colombo on behalf of the Suspect, the Court had declined the request for bail having considered the objections of the State. Although, a Revision Application under case No. CA PHC APN 89/25 was filed against the order of the learned High Court Judge dated 25.08.2025, Now the Petitioner seeks relief in the exercise of the Original Jurisdiction vested by Section 15 B of the Prevention of Terrorism (Special Provisions) (Amendment) Act No. 22 of 2022.

The Section 15 B of PTA (Amended) Act No. 12 of 2022 states:

Notwithstanding anything to the contrary in the provisions of this Act, if the trial against a person remanded or detained under this Act has not commenced after the expiration of twelve months, from the date of arrest, the Court of Appeal may release such person on bail, upon an application in that behalf, made by the suspect or an Attorney-at-Law on his behalf:

Provided however, notwithstanding the provisions of subsection (2) of section 15, the High Court may in exceptional circumstances release the suspect on bail subject to such conditions as the High Court may deem fit:

Provided further, where the trial against an accused in respect of whom the indictment has been forwarded and filed in the High Court, has not commenced after the expiration of twelve months from the date of such filing, the High Court may consider to release such person on bail, upon an application in that behalf made by the accused or an Attorney-at-Law on his behalf.”

Although, one year passed after his arrest, the Hon. Attorney General has not filed any charges against the Suspect in the relevant court. Further, investigations notes have not been received by the Attorney General's Department.

The learned State Counsel considering the medical conditions and other circumstances of the case, is not objecting for bail.

Considering all these factors into account, especially the period in remand, the uncertainty of filing indictment in the High Court, the medical condition, circumstances of his arrest and other circumstances of the case, I consider this an appropriate case to grant bail to the Suspect. Hence, I order the Suspect be granted bail with following strict conditions.

1. Cash bail of Rs.200,000/=.
2. To provide 02 sureties. They must sign a bond of two million each. The Petitioner should be one of the sureties.
3. The Petitioner and the sureties must reside in the address given until conclusion of his case.
4. Not to approach any prosecution witnesses directly or indirectly or to interfere with.
5. To surrender her passport if any, to court and not to apply for a travel document. The Controller of the Immigration and Emigration is informed of the travel ban on the Suspect.
6. To report to the Officer-in-Charge, Counter Terrorism and Investigation Division, Old Police headquarters Building, Colombo-01 on the last Sunday of every month between 9am to 1pm.
7. Any breach of these conditions is likely to result in the cancellation of his bail.

The Bail Application is allowed and the Learned High Court Judge of Colombo is hereby directed to enlarge the Suspect on bail on the above bail conditions.

The Registrar of this Court is directed to send this order to the Magistrate Court of Colombo and Officer-in-Charge of the Counter Terrorism and Investigation Division, Old Police headquarters Building, Colombo-01.

JUDGE OF THE COURT OF APPEAL

Pradeep Hettiarachchi, J.

I agree.

JUDGE OF THE COURT OF APPEAL