

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

In the matter of an application for Bail
made under and in terms of Section
83(2) of the Poisons, Opium and
Dangerous Drugs (Amendment) Act No.
41 of 2022 dated 23.11.2022.

The Officer-in-Charge
Police Station,

Kadawatha.

Court of Appeal

Bail Application No:

COMPLAINANT

CA Bail 0222/2025

Vs

MC Mahara Case No.

Dingirige Roshan Chandrarathna

B/523/2023

SUSPECT

AND NOW BETWEEN

Umagiliya Kankanamage Pradeepa

Chithrangani

No.527/1/B, Ihala Biyanwila,

Kadawatha.

PETITIONETR

Vs.

1. The Attorney General
Attorney General's Department,
Colombo-12.
2. The Officer-in Charge,
Police Station,
Kadawatha.

RESPONDENTS

BEFORE : **P.Kumararatnam, J.**
P.R. Hettiarachchi, J.

COUNSEL : **Sanjith Senanayake with Upul**
Dissanayake for the Petitioner.
Jehan Gunasekara, SC for the
Respondents.

ARGUED ON : **09/09/2025.**

DECIDED ON : **30/09/2025.**

ORDER

P.Kumararatnam,J.

The Petitioner is the mother of the Suspect. The Suspect has been named in M.C. Mahara Case No. B 523/2023. She had applied for bail for her son second time.

On 01.02.2023, the Suspect was arrested at Ihala Biyanwala area by Special Task Force Officers attached to the Gonahena STF Camp upon an allegation relating to possession of 30.870 grams of Methamphetamine (ICE). According to police, the contraband was seized from right side pocket of the Suspect at the time of his arrest.

The suspect was produced and facts were reported to the Mahara Magistrate under Section 54A (d) and (b) of the Poisons, Opium and Dangerous Drugs Ordinance as amended by the Act No.13 of 1984.

The production had been sent to the Government Analyst Department on 27/02/2023. After analysis, the Government Analyst had forwarded the report to Court on 24/08/2023. According to the Government Analyst, 24.23 grams of pure Methamphetamine (ICE) had been detected from the substance sent for the analysis.

According to the Petitioner, the Suspect was arrested without any contraband in his possession. Having introduced Methamphetamine to him, he had been produced before the Magistrate Court of Mahara on 01.02.2023.

The Petitioner has pleaded following exceptional circumstances in support of her Bail Application.

1. No drugs were found in his possession of the Suspect and the drugs is introduced by the police officers to him.
2. The Suspect has been in remand over 31 months.
3. The Suspect is the sole breadwinner of the family.
4. The Suspect has a 13-year-old daughter and her mother had deserted her.

The suspect has been in remand for more than 31 months. According to the Government Analyst Report, the pure quantity of Methamphetamine detected from the possession of Suspect is 24.23 grams.

Exceptional circumstances are not defined in the statute. Hence, what is exceptional circumstances must be considered on its own facts and circumstances on a case by case.

In **Ramu Thamodarampillai v. The Attorney General [2004] 3 SLR 180** the court held that:

“the decision must in each case depend on its own peculiar facts and circumstances”.

The Section 83 of the Poison, Opium and Dangerous Drugs Act which was amended by Act No. 41 of 2022 states:

83. (1) Subject to the provisions of sections 84, 85 and subsection (2) of this section, a person suspected or accused of an offence under sections 54A and 54B of this Ordinance, shall not be released on bail by the High Court except in exceptional circumstances.

(2) Notwithstanding the provisions of sections 84 and 85, a person suspected or accused of an offence under subsection (1) of section 54A and section 54B-

(a) of which the pure quantity of the dangerous drug, trafficked, imported, exported, or possessed is ten grammes or above in terms of the report issued by the Government Analyst under section 77A; and

(b) which is punishable with death or life imprisonment,

shall not be released on bail except by the Court of Appeal in exceptional circumstances.

In this case, the pure quantity of Methamphetamine detected in the production by the Government Analyst is 24.23 grams. Hence, this court has jurisdiction to consider granting of bail as per the new amendment.

The production was sent to the Government Analyst Department on 27.02.2023 and the report was received by the Magistrate Court of Mahara on 24.08.2023. Although two years have passed, the prosecution is unable to send out indictment to the High Court.

The Counsel for the Petitioner submitted that the police have fabricated a case against the Suspect.

The Petitioner has disclosed that the Suspect has previous convictions. The learned State Counsel in his submissions submitted to this Court that the Suspect has four previous convictions and all are related to possession of drugs.

The learned State Counsel submitted that the indictment under AG's Reference No. CR3/58/2025 has already forwarded to the High Court and not served on the Suspect up to now. Hence, trial is not started yet. Under these circumstances, the learned State Counsel is not objected for granting bail.

Offences under Section 54A(d) and 54A(b) of the Poisons Opium and Dangerous Drugs Ordinance as amended by the Act No.13 of 1984 is no doubt serious offences but seriousness of the offence alone cannot form a ground to refuse bail. In considering these matters, the court must bear in mind the presumption of innocence.

Further, bail should never be withheld as punishment. Granting of bail is primarily at the discretion of the Courts. The discretion should be exercised with due care and caution, taking into account the facts and circumstances of each case.

Considering all these factors into account, especially the period in remand, and the circumstances of the case, I consider this is 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.50,000/=.

2. To provide 02 sureties. They must sign a bond of five hundred thousand (rs.500,000/-) each. The Petitioner should be one of the sureties.
3. The Suspect 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 his 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 Kadawatha Police Station on the 2nd and 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 Registrar of this Court is directed to send this order to the Magistrate Court of Mahara and Officer-in-Charge of the Police Station, Kadawatha.

JUDGE OF THE COURT OF APPEAL

Pradeep Hetiirachchi, J.

I agree.

JUDGE OF THE COURT OF APPEAL