

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

CA (PHC) APN 70/2016

Martin Thalwaththa alias Athula Kumarasiri

1st Accused Appellant

Vs.

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

Respondent

BEFORE : H.C.J. Madawala, J. &
L.T.B. Dehideniya, J.

COUNSEL : Dr. Ranjit Fernando for the petitioner.
Varunika Hettige SSC for the respondent.

DECIDED ON: 12.08.2016

H.C.J. MADAWALA, J.

Counsel for the petitioner filed this application to revise the order dated 29.01.2016 of the learned High Court Judge of Badulla. Dr. Ranjit Fernando submits Court that the accused has been indicted on a charge of criminal breach of trust and misappropriation in a sum of Rs. 245,450/- under the Public Property Act and has been sentenced to five years Rigorous Imprisonment and a sum of Rs. 736,350/- fine in default 18 months simple imprisonment. At this juncture, counsel produces the Medical Certificate marked X 2 of Dr. Ajith Malalasekera dated 25.05.2016 and submitted that the accused has to undergo surgery on an urgent basis as keeping the catheter risks further urine infections and may even put his life into threat as he is a diabetic patient.

The Senor State Counsel for the respondent submits that the accused has been charged under the Public Property Act and the punishment is a fine which amounts to three times of the value of the property misappropriated.

She further submits that the Court may consider this fact and make an appropriate order.

Court considered the submissions of Counsels and the health conditions of the accused as an exceptional circumstances to grant bail. Court orders to release the accused under following conditions.

1. Court order Rs. 750,000/- cash bail.
2. Rs. 500,000/- surety bail with two sureties acceptable to the High Court Judge of Badulla.
3. The passport of accused is impounded and the High Court Judge of Badulla is directed to take appropriate steps to inform the Immigration and Emigration Authority accordingly.

Registrar is directed to inform these conditions of bail to the High Court of Badulla through telephone and fax at the expenses of the petitioner.

JUDGE OF THE COUR OF APPEAL

L.T.B. DEHIDENIYA, J.

I agree.

JUDGE OF THE COURT OF APPEAL

KRL/-