

IN THE COURT OF APPEAL OF THE DEMOCRATIC SOCIALIST

REPUBLIC OF SRI LANKA.

In the matter of an application
for bail under section 10 (1) (a) of
the Assistance to and Protection
of Victims of Crime Witnesses
Act No. 4 of 2015.

Court of Appeal Case No:
CA / BAIL/ 058/2022

Magistrate's Court of Kurunegala
Case No: **B / 1720/2022**

Officer in Charge
Weerambugedara Police Station
Weerambugedara

Complainant

Vs.

Kolamba Arachchige Upul
Samantha Perera.

Rajapitiya

Pothuhera

(Presently in Remand)

Suspect

AND NOW BETWEEN

Dingiya Kosgollalage Dilani
Susantha Kumari,

Rajapitiya

Mahapitiya

Pothuhera.

(Wife of the Suspect)

Petitioner

Vs.

Officer in Charge

Weerambugedara Police Station

Weerambugedara

Complainant – Respondent

Hon. Attorney General

Attorney General's Department

Colombo 12.

Respondent

Before: Menaka Wijesundera J.

Neil Iddawala J.

Counsel: Lakshan Dias for the Petitioner.

Hansa Abeyratne, SC for the State.

Argued on: 24.01.2023

Decided on: 01.03.2023

MENAKA WIJESUNDERA J.

The instant application has been filed to obtain bail for the suspect namely **Kolamba Arachchige Upul Samantha Perera** under the provisions of **Assistance to and Protection of Victims of crimes and Witnesses act.**

The suspect in the instant matter had been arrested and produced for causing mischief to the house of Derric Gold Pathum Paul on 9.5.2022 and remanded on 15.5 2022 and upon obtaining bail for the same had threatened the virtual complainant with death and the police had reported facts under the instant act and he had been remanded by the Magistrate.

The main Contention of the Counsel for the suspect is the discrepancies in the evidence against the suspect and the lack of identification.

But the Counsel for the respondents objected to the application and stated that the suspect should be urging exceptional circumstances to obtain bail and that he has not done so and stated further that the indictment against the suspect for the instant matter would be dispatched soon.

The law pertaining to this matter is that a suspect produced and remanded under this act can be granted bail only upon exceptional circumstances by the Court of Appeal, and the term exceptional has not been defined in the act but our legal literature has held that exceptionality has to be determined by the facts of each case.

In the instant matter the Counsel for the suspect urged this Court to go in to the merits of the case which had been permitted in the case of **Queen vs Liyanage** and in many others but in a recent judgement by the Supreme Court, in the case of **SC-SPL-LA 53-2022** has held contrary .

While appreciating the legal sentiments discussed in the above mentioned case we are of the opinion that as the indictment is also being

dispatched in the near future that the grounds urged by the Counsel for suspect cannot be considered at this juncture.

As such the instant application for bail is hereby dismissed.

Judge of the Court of Appeal.

I agree.

Neil Iddawala J.

Judge of the Court of Appeal.