

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

In the matter of an application for bail in terms of the Section 83 of the Poisons, Opium and Dangerous Drugs Ordinance as amended by the Act No.41 of 2022.

Court of Appeal

Democratic Socialist Republic of Sri

Application No.

Lanka

CA Bail 0017/2026

COMPLAINANT

Vs.

High Court of Kegalle

1. Ramani Ranasinghe

Case No. HCC 4626 /2021

2. Bandara Gedera Gayan Indunil

Rupawansha

ACCUSED

AND NOW BETWEEN

Ramani Ranasinghe

No.174/Galle Road,

Balapitiya.

1st ACCUSED-PETITIONER

Vs.

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

RESPONDENT

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

COUNSEL : **Woshan Herath instructed by Prasad**
Harshana Jananada for the Petitioner.
Shezan Mahboob, SC for the
Respondent.

ARGUED ON : **06/07/2026.**

DECIDED ON : **18/09/2026.**

ORDER

P.Kumararatnam,J.

The Petitioner is the 1st -Accused (Hereinafter referred to as the Petitioner) named in the High Court of Kegalle Case No. HC 4626/2021.

According to the report submitted, by a team of police officers attached to the Organized Crimes Prevention Division of the Western Province arrested the Petitioner on 22.06.2020 and produced her under Case No. B/8043/2020 in the Magistrate Court of Kegalle.

Productions were weighed in presence of the Petitioner. The suspected Heroin found in the bag carried by the Petitioner at the time of her arrest and subsequent recovery weighed about 1.527Kg. According to the Government Analyst Report the pure Heroin detected in the bag carried by the Petitioner and the subsequent recovery is 948.2 grams.

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

Further investigation revealed that the 2nd Accused had aided and abetted the Petitioner in this case.

The Petitioner had been indicted along with the 2nd Accused in the High Court of Kegalle for possession and trafficking 948.2 grams of Heroin (Diacetylmorphine) punishable under Sections 54A(b) and (d) of the Poisons, Opium and Dangerous Drugs Act No.13 of 1984, and the 2nd Accused for aiding and abetting the Petitioner for possession and trafficking of Heroin.

The trial was commenced on 31.07.2023 but not concluded yet. The recording of evidence of PW1 is not over as at now.

The Petitioner submits that she had been in remand over 6 years to date. The 2nd Accused was granted bail on 18.07.2024 by this Court.

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

1. The Petitioner has been in remand custody for over 6 years.
2. The trial in case No. HC/4626/21 has commenced not over.
3. Long incarceration of the Petitioner will deprive herself to stand for a fair trial.
4. The Petitioner has no previous or pending cases.

The State opposing to bail submitted that an indictment against Petitioner along with the 2nd Accused had been filed in the High Court of Kegalle.

The Petitioner is in remand over 6 years. According to Government Analyst Report, the pure quantity of Heroin detected from the possession of the Petitioner is 948.2 grams.

According to the Petitioner, even though, the trial commenced on 31.07.2023, the prosecution could not conclude the evidence of PW1.

The 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 Heroin detected in the production by the Government Analyst is 948.2 grams. Hence, this court has jurisdiction to consider granting of bail as per the new amendment.

The Counsel for the Petitioner submits that undue and long delay in keeping the Petitioner in remand custody is a clear violation of her human rights and is against the presumption of innocence guaranteed under the Article 13(5) of the Constitution.

Therefore, considering this as an exceptional circumstance among others, the learned Counsel moves this Court to consider granting of bail to the Petitioner.

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 Court. The discretion should be exercised with due care and caution taking into account the facts and circumstances of each case separately.

The learned State Counsel in keeping with the Highest tradition of the Attorney General's Department, did not object for granting bail to the Petitioner on the basis of oppressive delay.

Considering all these factors into account, especially the period in remand, the uncertainty of conclusion of the trial, the circumstances of her arrest and other circumstances of the case, I consider this an

appropriate case to grant bail to the Petitioner. Hence, I order the Petitioner be granted bail with following strict conditions.

1. Cash bail of Rs.100,000/=.
2. To provide 02 sureties. They must sign a bond of two million each.
3. The Petitioner and the sureties must reside in the address given until conclusion of her 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 Petitioner.
6. To report to the Organized Crimes Prevention Division, Battaramulla 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 her bail.

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

The Registrar of this Court is directed to send this order to the High Court of Kegalle, and the Officer-in-Charge, Organized Crimes Prevention Division, Battaramulla.

JUDGE OF THE COURT OF APPEAL

R.P.Hettiarachchi, J.

I agree.

JUDGE OF THE COURT OF APPEAL