

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

The Officer-in-Charge

Application No.

Police Narcotics Bureau,

CA Bail 0088/2026

Colombo-01.

COMPLAINANT

Vs.

Magistrate Court of Gangodawila

Dissanayake Mudiyansele

Case No: BR 40339/2024

Prasanna Gunathilake

(In remand prison)

3rd SUSPECT

AND NOW BETWEEN

Dissanayake Mudiyansele

Prasanna Gunathilake

A/1/8, Vithanage Mawatha,

Colombo-02.

3rd SUSPECT-PETITIONER

Vs.

1. The Officer-in-Charge
Police Narcotics Bureau
Colombo-01.
2. The Attorney General
Attorney General's Department,
Colombo-12.

RESPONDENTS

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

COUNSEL : **Sandeepani Wijesooriya with Akila**
Jayasundara for the Petitioner.
Malik Azeez, SC for the Respondents.

ARGUED ON : **04/08/2026.**

DECIDED ON : **05/10/2026.**

ORDER**P.Kumararatnam,J.**

The Petitioner is the 3rd Suspect named in the Gangodawila Magistrate Court Case No. B/40339/24.

According to the report submitted by the Police Narcotics Bureau, Cololmbo-1, the Petitioner was arrested for aiding and abetting the 1st Suspect. Initially the 1st Suspect was arrested for possession of 604 grams (Gross) of Methamphetamine on 05.12.2024. After further investigation, the 2nd Suspect was arrested and recovered 104 grams (Gross) Methamphetamine. Thereafter, the police had conducted a search at the house of the owner and recovered 92 grams of Kush. For which the 3rd Suspect was arrested.

The main reason for the arrest of the 3rd Suspect was that he had provided accommodation in the house where the 3rd Suspect resided. The house was rented by the 3rd Suspect. Further, the 1st Suspect is the brother-in-law of the 3rd Suspect. Apart from that nothing was recovered from the 3rd Suspect when he was arrested.

The 3rd Suspect and others were produced and facts were reported to the Colombo Magistrate under Section 54A (d), and (b) of the Poisons, Opium and Dangerous Drugs Ordinance as amended by the Act No.13 of 1984.

Upon a Court order the Petitioner and others were placed under a detention order to facilitate the Police Narcotics Bureau to conduct further investigation with regard to the detection.

Under these circumstances, the learned Counsel had made an application before the Magistrate to discharge the 3rd Suspect for want of evidence.

The Petitioner submits that he and two others have been in remand for little over 20 months without filing any charge against them.

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

1. Non-existence of a prima-facie case against the Petitioner.
2. Improbability of the version of the prosecution.
3. The Petitioner has been in remand custody for over 20 months.

The State opposing to bail submitted that the Petitioner has three previous convictions for possession of Cannabis. In one previous conviction he had possessed 16.410 kilograms of Cannabis. Further, he had been produced in the case No. B 28390/2020 in the Magistrate Court of Colombo for aiding and abetting for importing and trafficking large quantities of Heroin and Methamphetamine.

The Petitioner is in remand for little over 20 months. According to Government Analyst Report, the pure quantity of Methamphetamine detected from the possession of the 1st Suspect is 465.3 grams.

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.

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

In this case the Petitioner had not possessed any drugs at the time of his arrest. He was only arrested for aiding and abetting 1st Suspect for possession of 365.3 grams of Methamphetamine. Although, he had been made a Suspect in the case pending before the Magistrate Court of Colombo, no materials submitted to this court as to how he aided and abetted for importation and trafficking of large quantities of Heroin and Methamphetamine.

Considering all these factors into account, especially the evidence available against the Petitioner, the circumstances of his arrest and other circumstances of the case, I consider this is 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 03 sureties. They must sign a bond of five hundred thousand each.

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 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 Petitioner.
6. To report to the Officer-in-Charge, Police Narcotics Bureau, 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 is allowed and the Learned Magistrate of Gangodawila is hereby directed to enlarge the Petitioner on bail on the above bail conditions.

The Registrar of this Court is directed to send this Bail Order to the Magistrate Court of Gangodawila, and the Officer-in-Charge, Police Narcotics Bureau, Colombo-01.

JUDGE OF THE COURT OF APPEAL

R.P.Hettiarachchi, J.

I agree.

JUDGE OF THE COURT OF APPEAL