

**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 Station,
CA Bail 0340/2025	Matara.

COMPLAINANT

Vs.

Magistrate Court of Matara	Esal Kavinda Godevitharana
Case No: BR/6386/2024	(In remand prison)

4th SUSPECT

AND NOW BETWEEN

Halviti Kankanamge Amara De Silva

Nagoda Ihala, Nagoda,

Galle.

PETITIONER

Vs.

1. Director
Narcotics Control Breau,
Colombo-11.
2. Director General
Police Narcotics Bureau,
Colombo.
3. The Officer-in-Charge
Division of Criminal Investigation Unit,
Matara.
4. The Attorney General
Attorney General's Department,
Colombo-12.

RESPONDENTS

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

COUNSEL : **Sanjay Rajaratnam, PC with Dayan**
Wijewickrama instructed by Punsara
Ratnayake for the Petitioner.
Shezan Mahboob, SC for the
Respondents.

ARGUED ON : **02/07/2026.**

DECIDED ON : **15/09/2026.**

ORDER**P.Kumararatnam,J.**

The Petitioner is the mother of the 4th Suspect named in the Matara Magistrate Case No. BR/6386/2024.

According to the B Report submitted by the Officer-in-Charge of the Division of Criminal Investigation Unit, Matara, the 4th Suspect was arrested upon an investigation carried out consequent to a tip off received by the said unit. Acting on that information, a group of police officers headed by CI/Rukman Kumara had commenced investigation and arrested a person called Amadoru Thuppahige Sameera Gayanytha on 20.11.2024 on the charge of aiding and abetting an organised gang who import and distribute dangerous drugs with the assistance of people who stay abroad. He had been named as the 1st Suspect in this case. Upon interrogation, the 1st Suspect had revealed that large haul of drugs brought in a multiday fishing trawler and loaded in to a white coloured van bearing No.PG 4739 and he had videoed the same in his mobile phone. The owner of the van was traced but it was revealed that the owner had rented the vehicle to one Samarappuli Hewage Tharindu Lakmal on 18.11.2024. He was arrested on 21.11.2024 at Mount Lavinia on the charge of transporting illegal drugs brought through sea and trafficking the same into the Island and aiding and abetting an organised gang who import and distribute dangerous drugs with the assistance of people who stay abroad. He has been named as the 2nd Suspect in this case.

Upon interrogation, it was revealed that a person called Rajaguru Mudiyanseelage Ruwantha Bandara also aided and abetted the group who transported the drugs in a van bearing number PG 4739. He was arrested

on 21.11.2024 at Mount Lavinia and he was named as the 3rd Suspect in this case.

Upon an intensive investigation, it was revealed that the drugs which were transported in a white van was ended at the house of a person called Visal Kavinda Godevitharana at Nagoda and he was arrested on 21.11.2024 on the charge of possession and trafficking of large quantity of drugs at his residence. The police had recovered 220.150 kilograms of Methamphetamine and 74.40 kilograms of Heroin (Diacetylmorphine) from his possession.

The police conducted further investigation after obtaining detention orders under Section 82(3) of the Poison, Opium and Dangerous Drugs (Amended) Act No. 41 of 2022 in respect of the four Suspects arrested.

Further investigation had revealed that a person called Andra Hennadige Madusha Tharuka had prevented the 1st Suspect from videoing the loading and transport process. Upon his insistence, the said video was deleted by the 1st Suspect. Further, he had assisted with others to load the drugs into the vehicle. Hence, he was arrested and named as the 5th Suspect in this case.

The investigation had further revealed that a person called 'Laiya' had orchestrated the importation of the said drugs to Sri Lanka with the help of a married couple who acted as the local agent. Their names are Iresh Hansaka Jayawardena and Panagoda Liyanage Isanka Nethmini. The police conducted investigation but could not arrest them. A car which was used by Hansaka Jayawardena was recovered by the police. Even though, the police could not arrest, they were added as 6th and 7th Suspects in this case.

Upon the examination of the phone details of the 6th Suspect, the identity of the 8th Suspect was revealed and he too was arrested on the allegation of aiding and abetting the others Suspects to commit the offence.

The police on 21.01.2025 in Trincomalee, arrested a person called Andra Hennaduge Jayantha alias Thettu Chuti for aiding and abetting other Suspect to commit the offence. He has been named as the 9th Suspect in this case. He is a fisherman by profession and the owner of a fishing boat named OFRP-A-1740 MTR. This boat had been used to transport drugs to shore by two persons.

On 26.01.2025, police officers attached to Trincomalee Police Station arrested two more persons namely Lokugam Hewage Sumeera and Christombu Baduge Asela Nuwan for aiding and abetting the other Suspects to commit the offence. They had been named as the 10th and the 11th Suspects respectively.

Honda Achchi Patabendige Chaminda who named as the 13th Suspect had gone to the sea in the fishing vessel owned by 9th Suspect and with help of the 9th, the 10th, and the 11th Suspects brought the drugs mentioned above to shore with the assistance of another boat namely 'Senathu Putha'. He has surrendered to police on 30.01.2025.

Further investigation revealed that a person named R.A.P.D.A. Shantha also assisted the 8th and the 11th Suspect to transport drugs from the sea. He has been named as the 14th Suspect.

Upon a Court order the substance had been sent to the Government Analyst Department and according the Government Analyst Report dated 24.10.2025, 126.9871 kilograms of pure Methamphetamine and 32.3771 kilograms of pure Heroin (Diacetylmorphine) had been detected in the parcels.

The Suspects were produced in the Magistrate Court of Matara and facts were reported under Section 54A (d) and (b) of the Poisons, Opium and Dangerous Drugs Ordinance as amended by the Act No.13 of 1984.

The Petitioner submit that the 4th Suspect had been in remand for nearly 21 months without filing any charge against them.

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

1. The 4th Suspect has been in remand custody for nearly 21 months.
2. The Petitioner is 74 years old and the 4th Suspect is the only breadwinner of the family.
3. The 4th Suspect had never possessed anything at the time of his arrest.
4. The 4th Suspect has no previous or pending matters reported in any Court of Sri Lanka.

Courts generally consider several factors when determining whether to grant bail, including the likelihood of the defendant fleeing, committing further crimes, or interfering with witnesses.

The goal of the bail system is to balance the presumption of innocence with the need to protect public safety and ensure the individual returns to court.

Carder (On behalf of Rashid Kahan) v Officer-in-Charge Narcotic Bureau (2006) 3 Sri L R. 74 per Eric Basnayake. J.

"These types of offences affect the society at large. The law should not be made impotent that it does not serve the Society and the anti-social element should not be given licence to create havoc in Society".

Learned State Counsel submitted that the delay is not an exceptional circumstance to be considered to enlarge the 4th Suspect on bail. Further, in this case, the time spent for preparing the indictment does not constitute an exceptional circumstance as the Suspect had committed very serious offence under the Poison, Opium and Dangerous Drugs Act No.22 of 2022 (Amendment).

The Suspect is in remand nearly 21 months. According to Government Analyst Report, the pure quantity of Methamphetamine and Heroin

detected from the possession of the 4th Suspect is 126.9871 kilograms and 32.3771 kilograms respectively.

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.

Considering the quantities of drugs detected, this court has jurisdiction to consider granting of bail as per the new amendment.

The learned President's Counsel for the Petitioner submits that undue and long delay in keeping the Suspect 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 Suspect alleged to have committed Offences under Section 54A(d), and (b) of the Poisons Opium and Dangerous Drugs Ordinance as amended by the Act No.13 of 1984. The offences are very serious in nature and the seriousness of the offence should be considered when bail is considered.

I agree with the learned State Counsel that this is not appropriate case to consider the factual and evidentiary matters pertain to the investigations at this stage. It can only be tested at the trial upon the witnesses being cross examined and re-examined.

In this case the pure Methamphetamine and Heroin detected is 126.9871 kilograms and 32.3771 kilograms respectively, which certainly a very high commercial quantity. Considering the seriousness of the sentence prescribed under the Poison, Opium and Dangerous Drugs Ordinance, there is a high risk of absconding.

Hence, I do not consider the delay nearly 21 months in remand falls into the category of excessive and oppressive delay considering the circumstances of this case.

Considering all these factors into account, especially the pure quantity of Methamphetamine and Heroin detected, the charges going to be framed against the 4th Suspect and circumstances of the case, I consider this is not an appropriate case to sanction bail to the 4th Suspect at this stage. Hence, I refuse to release the 4th Suspect on bail.

Hence, this Bail Application is dismissed.

The Registrar of this Court is directed to send this bail order to the Magistrate Court of Matara and Officer-in-Charge of the Police Narcotics Bureau, Colombo-01.

JUDGE OF THE COURT OF APPEAL

R.P.Hettiarachchi, J.

I agree.

JUDGE OF THE COURT OF APPEAL