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 0347/2025	Matara.

COMPLAINANT

Vs.

Magistrate Court of Matara	Lokugam Hewage Sumeera
Case No: BR/6386/2024	(In remand prison)

10th-SUSPECT

AND NOW BETWEEN

Amadoru Thuppahige Lalithalatha

No. 199/A,

Dangahakoratuwa,

Gandara.

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	:	**Saliya Peiris, PC with Rukshan Mendis, Hiruni Chandrasekara instructed by Bagya Ayeshani Peiris for the Petitioner.** **Shezan Mahboob, SC for the Respondents.**
ARGUED ON	:	**02/07/2026.**
DECIDED ON	:	**15/09/2026.**

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ORDER

P.Kumararatnam,J.

The Petitioner is the mother of the 10th 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 Mudiyanselage 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 the 6th and the 7th Suspects in this case.

Upon the examination of the phone details of the 6th Suspect, the identity of the 8th Suspect namely M.P.A.Y. Dulanjana Appuhami 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 Christhombu 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 the 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 10th Suspect had been in remand for nearly 21 months without filing any charge against them.

<u>The Petitioner has pleaded following exceptional circumstances in support of this Bail Application.</u>

1. The 10th Suspect has been in remand custody for nearly 21 months.
2. The Petitioner is the mother of the 10th Suspect and he is the only breadwinner of the family.
3. The 10th Suspect had never possessed anything at the time of his arrest.
4. The 10th 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.

The learned Counsel for the Petitioner strenuously contended that the 10th Suspect was arrested on inadmissible evidence by the police. The identity of the 10th Suspect was revealed from the statements of co-suspects arrested one week prior to his arrest. The police had arrested the 10th Suspect upon the statement of the 8th Suspect.

At this point, the State Counsel in keeping with the highest tradition of the Attorney General's Department, conceded that the 10th Suspect was arrested upon the statement given by the 8th Suspect and the phone details of the 6th Suspect who is not arrested yet.

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 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.

I agree with the learned State Counsel that this is an appropriate case to consider the factual and evidentiary matters pertain to the investigations at this stage.

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.

Considering all these factors into account, especially the non-objection of the State, I order the 10th Suspect 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 Rs.500,000/- each. The Petitioner should be one of the sureties.
3. The 10th Suspect 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 10th Suspect.
6. To report to the Matara Police Station 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 Application is allowed and the Learned Magistrate of Matara is hereby directed to enlarge the 10th Suspect on bail on the above bail conditions.

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

JUDGE OF THE COURT OF APPEAL

<u>R.P.Hettiarachchi, J.</u>

I agree.

JUDGE OF THE COURT OF APPEAL