

**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 0370/2025

Colombo-01

High Court of Chilaw

COMPLAINANT

Case No: HC 15/2025

Vs.

Hewa Sundara Pedige Raveendra

Dharmasena

(Presently in remand prison)

ACCUSED

AND NOW BETWEEN

Hewa Sundara Pedige Rashmi
Priyanwada

01, Ruup Housing Scheme, Ihala
Hattiya,

Marawila.

PETITIONER

Vs.

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

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

COUNSEL : **Lelani Sirisena for the Petitioner.**
Tharaka Kodagoda, SC for the
Respondents.

ARGUED ON : **26/02/2026.**

DECIDED ON : **04/06/2026.**

ORDER

P. Kumararatnam,J.

The Petitioner is the daughter of the Accused named in the Magistrate Court of Marawila bearing case No. B 1251/2024 and in the High Court of Chilaw Case No.15/25.

According to the B report submitted, the Accused was arrested upon an investigation carried out consequent to a tip off received by the officers attached to the Police Narcotics Bureau. As per the information the officers had checked the Accused at Kadurugas Junction. The Accused, who was the pillion rider possessed a black bag. In the said bag contained five small bags with substance similar to Heroin (Diacetylmorphine), the Accused was arrested along with the rider of the motorbike. Thereafter, the Accused's house was checked by the police and found a polythene bag with some crystals which resembled Methamphetamine.

The recovered Heroin weighed about 450 grams and the Methamphetamine weighed about 1.340 Kilograms.

The Accused was produced in the Magistrate Court of Marawila along with the 2nd Accused named in the indictment and facts were reported under Section 54A (b) and (d) of the Poisons, Opium and Dangerous Drugs Ordinance as amended by the Act No. 13 of 1984. Upon a Court order the Accused was placed under a detention order to facilitate the Police Narcotics Bureau to conduct further investigation with regard to the detection.

Upon a Court order the contrabands had been sent to the Government Analyst Department and according to the Government Analyst Report dated 16.12.2024, 25.41 grams of pure Heroin and 1.101 Kilograms of Methamphetamine had been detected in the parcels sent for analysis.

The Petitioner alleges that the Accused was taken into custody by the police on a mere conjecture without any reasonable suspicion. The Petitioner further alleges that no Heroin and Methamphetamine or any other contraband had been detected from the Accused.

The Petitioner submits that the Accused had been in remand for nearly 01 year and 11 months. Indictment has been filed in the High Court of Chilaw.

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

1. Non-existence of a prima facie case against the Suspect
2. The Accused has been in remand custody for nearly 01 year and 11 months
3. He is the sole breadwinner of the family.

The State Counsel submits that the dossier of the investigation has been received by the Attorney General's Department and the indictment has already been filed in the High Court of Chilaw under case No. HC 15/2025.

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 is 25.41 and the pure quantity of Methamphetamine detected in the production by the Government Analyst is 1.101 Kilograms. 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 Accused 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.

Although 01 and 11 months had been passed after his arrest, the trial before the High Court has not been commenced. Expeditious trial is an integral element of a fair trial.

The Accused has no previous or pending matters reported in any Court of Sri Lanka.

In this case the Accused is alleged to have committed Offences under Section 54A (b) and (d) of the Poisons, Opium and Dangerous Drugs Ordinance as amended by the Act No. 13 of 1984.

The varieties of drugs including Heroin and Methamphetamine were found in the possession of the Accused shows that he is a drug dealer and not a user.

I agree with the Learned State Counsel that this is not an appropriate case to consider the factual and evidentiary matters pertaining 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 Heroin detected is 45.41 grams and the pure Methamphetamine detected is 1.101 Kilograms. Considering the seriousness of the sentence prescribed under the Poisons, Opium and Dangerous Drugs Ordinance, there is a high risk of absconding. Further, the Accused has committed these offences when he has five previous convictions related to possession and trafficking of drugs.

Hence, I do not consider the delay little over 01 years and 11 months in remand as falling 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 Heroin and Methamphetamine detected, the charges framed against the Accused, and other circumstances of the case, I consider this is not an appropriate case to sanction bail to the Accused at this stage. Hence, I refuse to release the Accused on bail.

Hence, this Bail Application is dismissed.

The Registrar of this Court is directed to send this Bail Order to the High Court of Chilaw and Officer-in-Charge of the Police Narcotics Bureau.

JUDGE OF THE COURT OF APPEAL

R.P. Hettiarachchi, J.

I agree.

JUDGE OF THE COURT OF APPEAL