

**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 0490/2025

COMPLAINANT

Vs.

High Court of Colombo

Omanthage Ranjith Nissanka Perera

Case No: HC 5250/2025

alias Mal Thusara

ACCUSED

MC Mount Lavana

Case No. 8586/2022

AND NOW BETWEEN

Abeyasinghe Arachchige Sriya Ranjani

No. 80/3, Liyanage Road,

Dehiwala.

PETITIONER

Vs.

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

RESPONDENTS

Omanthage Ranjith Nissanka Perera alias

Mal Thusara

(Detained in Remand Prison)

ACCUSED-RESPONDENT

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

COUNSEL : **Shahan Kulatunga for the Petitioner.**
Shezan Mahboob, SC for the
Respondents.

ARGUED ON : **14/05/2026.**

DECIDED ON : **22/06/2026.**

ORDER

P.Kumararatnam,J.

The Petitioner is the mother of the Accused (Hereinafter referred to as the Accused) named in the High Court of Colombo bearing case No. HC 5250/2025.

According to the B report submitted by the Police Illegal Asset Investigation Unit Cololmbo-1, the Accused was arrested upon an investigation carried out consequent to a tip off received by the officers attached to said Unit. As per the information when the officers entered the Accused's house, and checked the Accused found a polythene parcel from his left side shirt pocket. Upon perusal of the parcel, it revealed some substance was inside the parcel. As the substance reacted for Methamphetamine, he arrested and handed over to the Police Narcotics Bureau for further investigation. The gross quantity of the contraband weighed about 62 grams.

Upon a Court order the contraband had been sent to the Government Analyst Department and according the Government Analyst Report dated 28.06.2023, 47.1 grams of pure Methamphetamine had been detected in parcel sent for analysis.

The Accused was produced in the Magistrate Court of Mount Lavana 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.

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.

The Petitioner alleges that the Accused was taken into custody by the Police Officers attached the Illegal Asset Division on a mere conjecture without any reasonable suspicion. The Petitioner further alleges that no Methamphetamine or any other contraband had been detected from the Accused.

The Petitioner submit that the Accused had been in remand for three years and seven months. Indictment has already been sent to the High Court of Colombo.

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

1. Non-existence of a prima-facie case against the Accused.
2. Improbability of the version of the prosecution.
3. The Accused has been in remand custody for three years and seven months.
4. Existence of material contradictions in the report filed by the investigation authority.
5. The Accused is the sole breadwinner of the family.

The State opposing to bail submitted that the dossier of the investigations has been received by the Attorney General's Department and registered under CR3/535/2023. After the consideration of the same an indictment against the Accused had been filed in the High Court of Colombo. Hence, Learned State Counsel submitted that the delay is not an exceptional circumstance to be considered to enlarge the Accused on bail. Further, the time spent for preparing the indictment does not constitute an exceptional circumstance.

The Accused is in remand for three years and seven months. According to Government Analyst Report, the pure quantity of Heroin detected from the possession of the Accused is 47.01 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.

In this case, the pure quantity of Methamphetamine detected in the production by the Government Analyst is 47.01 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 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 three years and seven months have 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 had committed the offence while he was on bail for a similar offence. An indictment for possession of Heroin is pending against the Accused under case No. HC 5441/25 in the High Court of Colombo. Further, three previous convictions reported for possession of meagre quantity of drugs.

Pertaining to this case an indictment was served on the Accused on 29.04.2025 in the High Court of Colombo under case No.5250/2025. Pre-trial conference was over and the case has been fixed for trial.

A court can consider evidence in a bail inquiry. During a bail hearing, the court typically evaluates various factors to determine whether a Suspect should be granted bail, such as the risk of flight, the likelihood of reoffending, and the safety of the community. The court may also review evidence related to the Suspect's criminal history, ties to the community, and the specifics of the current charges.

Ultimately, the court's role during a bail inquiry is to weigh the available evidence to decide if the defendant can be trusted to return for trial or if they pose a danger to public safety.

In this case the Accused 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.

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 **Ranil Charuka Kulatunga v. Attorney General CA (PHC) APN 134/2015** the court held that:

“The quantity of cocaine involved in this case is 62.847 grams, which is a commercial quantity. If Petitioner is convicted, the punishment is death or life imprisonment. Under these circumstances, it is prudent to conclude the trial early while the Petitioner is kept in custody.”

In this case the pure Heroin detected is 47.01 grams, 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. Further, the Accused has committed this offence while a similar case is pending before the High Court of Colombo which is a clear testament of his propensity in committing drug related offences.

Hence, I do not consider the delay of three years and seven 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 Heroin detected, the charges framed against the Accused, the pending case and other and 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 this Bail Order to the High Court of Colombo 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