

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 provisions of the Code of Criminal Procedure Act read with Section 15(b) of the Prevention of Terrorism (Temporary Provisions) (Amendment) Act No. 12 of 2022.

Court of Appeal

Hikma Yoosuf

Application No:

Attorney-at-Law

CA/Bail /0033/26

No.222/5, Cotta Road, Borella.

Petitioner

MC Mullaitivu

No. B/605/2024

On behalf of

Fousin Mohamed Kamil

Hijrapura, Mulliyawalai.

(In Jaffna remand prison)

2nd-Suspect

Vs.

1. W.C.Perera
Chief Inspector
The Officer-in-Charge
Police Station,
Mulliyawalai.

2. H.D.K.S Perera
Senior Superintendent of Police
The Director
Counter Terrorism Investigation Unit.
149, Butani Capital Building
Kirulapane Avenue,
Colombo-05.
3. Priyantha Weerasooriya
The Inspector General of Police
Police Headquarters,
Colombo-01.
4. The Attorney General
Attorney General's Department
Colombo-12.

Respondents

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

COUNSEL **Rushdhie Habeeb with Rizwan Uwais**
For the Petitioner.
Zacky Smail, SC for the Respondents.

ARGUED ON : **24/06/2026.**

DECIDED ON : **01/09/2026.**

ORDER**P.Kumararatnam,J.**

The Petitioner on behalf of the 2nd Suspect, (Hereinafter referred to as the 'Suspect') filed this Application and invoked the jurisdiction of this Court to grant bail to him upon suitable condition as this Court consider appropriate.

The Suspect was arrested by officers attached to the Police Station, Mulliyawalai at his residence on 24.05.2024 and made as a Suspect in case No.B/626/2024 in the Magistrate Court of Mullaitivu. The allegation was that he had aided and abetted the Suspect already named in B/605/2024 who was arrested under the Prevention of Terrorism Act for possession of hand bombs and a T56 gun. It was alleged that the Suspect in this bail application had facilitated the Suspect in the case No.B 605/2024 by a hiring van to him. At the time of his arrest, the seats of the hired van were recovered from the Suspect's residence. At present, the Suspect in this bail application is discharged from the case No.626/2024 and added him to case No. B 605/2024 and charged under Section 3(a) b, 5 (a) b, 2(1) and 6(1) of the Prevention of Terrorism (Temporary Provisions) Act No.48 of 1979 as amended by Act No. 12 of 2022. The learned Counsel for the Petitioner alleged that when the Suspect was arrested, no evidentially materials has been produced before the Court. Further, no written authority as required under Section 6(1) of the PTA was filed along with the B report filed under case No.605/2024. Therefore, he argues that the detention of the Suspect under provisions of PTA is without any valid reasons.

The learned Counsel further submitted that the investigation does not reveal any unlawful activity on the part of the Suspect. Further, there are no improvement or further decision being taken or informed by the

Attorney General's Department even though the Suspect concluded more than two years in detention and remand custody. At present the vehicle involved in this case has been released to the claimant.

The Section 15 B of PTA (Amendment) Act No. 12 of 2022 states:

Notwithstanding anything to the contrary in the provisions of this Act, if the trial against a person remanded or detained under this Act has not commenced after the expiration of twelve months, from the date of arrest, the Court of Appeal may release such person on bail, upon an application in that behalf, made by the suspect or an Attorney-at-Law on his behalf:

In 15 B of PTA (Amendment) Act No. 12 of 2022, the key word is **“the trial”**. [Emphasis added] If the trial has not commenced after 12 months from the date of arrest, the Court of Appeal may release such person on bail, irrespective of whether the suspect has been indicted or not.

The learned State Counsel in keeping with the highest tradition of the Attorney General's Department did not object for bail considering the involvement of the Suspect in this case.

This Court is satisfied that the Petitioner has submitted acceptable circumstances to grant bail to the Suspect. Hence, the Suspect is granted bail subject to the following conditions:

1. Cash bail of Rs.50,000/=.
2. To provide 02 sureties. They must sign a bond of five hundred thousand (Rs.500,000/-) each. The Petitioner should be one of the sureties.
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 Suspect.
6. To report to the Officer-in-Charge, Police Station, Mulliyawalai on the 2nd and 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 Mullaitivu is hereby directed to enlarge the 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 Mullaitivu and, the Officer-in-Charge, Police Station, Mulliyawalai.

JUDGE OF THE COURT OF APPEAL

R.P.Hettiarachchi, J.

I agree.

JUDGE OF THE COURT OF APPEAL