

IN THE COURT OF APPEAL OF THE DEMOCRATIC SOCIALIST

REPUBLIC OF SRI LANKA

In the matter of an application for bail under and in terms of section 83(2) of the Poisons, Opium and Dangerous Drugs Ordinance No. 17 of 1929, as amended by the Acts No. 13 of 1984 and No. 41 of 2022.

Court of Appeal Bail Application No:
CA/BAL/214/2025

MC (Putlam) Case No: **27114/24**

Officer-in-Charge

Divisional Crime Investigation Bureau

Putlam

Complainant

-Vs-

Ramalingam Kartheepan

1st Suspect

AND NOW BETWEEN

Mukkaiya Kanthi

131/51, Jampata Street,

Colombo 13.

Petitioner

-Vs-

1. Hon. Attorney General

Attorney General's Department

Colombo 12.

2. Officer-in-Charge

Divisional Crime Investigation Bureau

Putlam.

Before : **P. Kumararatnam, J.**
Pradeep Hettiarachchi, J.

Counsel : Suranga Bandara for the Petitioner
Vishwa Wijesuriya, SC for the Respondents

Inquiry on : 01-06-2026

Decided on : 25-08-2026

Pradeep Hettiarachchi, J

Order

Background Facts

1. This is an Application for bail filed by Mukkaiya Kanthi on behalf of her son named Ramalingam Kartheepan (hereinafter referred to as “the 1st Suspect”) under Section 83(2) of the Poisons, Opium and Dangerous Drugs Ordinance.
2. The Suspect was arrested on 13-01- 2024 by the officers of Ratnapura Police for trafficking and possession of 2810 grams of Methamphetamine. He was subsequently produced before the Magistrate Court of Puttalam and remanded.
3. Thereafter, on 23-01-2024, another Suspect named Selvaraja Raveendra Kumar (hereinafter sometimes referred to as “the 2nd Suspect”) had been arrested, in connection to this case.
4. According to the Government Analyst Report dated 04-09-2024, the net quantity of Methamphetamine alleged to have been recovered from the Suspect is 1699.3 grams.

Relevant Law

5. Under Section 83(2), this Court can consider bail only if exceptional circumstances are made out. Section 83 as amended by the Poisons, Opium and Dangerous Drugs (Amendment) Act, No. 41 of 2022 reads:

Section 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 - (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, [sic] shall not be released on bail except by the Court of Appeal in exceptional circumstances.

(3) For the purposes of this section “dangerous drug” means Morphine, Cocaine, Heroin and Methamphetamine.

6. The provisions of Section 83 (2), as amended by Act No. 41 of 2022, manifest the intention of the legislature, i.e., a person accused or suspected of being in possession of 10 grams or more of the dangerous drugs is required to be kept in remand, unless such person satisfies this Court as to the existence of circumstances that are exceptional. Therefore, the burden is on the Petitioner to establish the existence of exceptional circumstances.
7. However, the exceptional circumstances are not defined in the Ordinance. Therefore, whether the grounds advanced by the Petitioner constitute exceptional circumstances must be determined based on the specific facts and circumstances of each case.

8. As stated in *Ramu Thamodarampillai v The Attorney General* [2004] 3 Sri. LR 180, “the decision must in each case depend on its own particular facts and circumstances.

Exceptional Circumstances

9. The following grounds have been urged by the Petitioner as exceptional circumstances warranting consideration for bail:
- (a) The Code of Criminal Procedure Act does not permit the prosecution to institute proceedings against the accused where the territorial jurisdiction is incorrect, or where the wrongful act was not committed. In the present case, the accused was arrested within the jurisdiction of Kalpitiya police, but the Suspect and the substance have been handed over to the Putlam police station. Under these circumstances, no case can be instituted in Putlam due to this issue.
 - (b) The Magistrate Court case record does not disclose the time of arrest, whether the production was sealed or whether it was taken away from the original jurisdiction to another or whether it was left with someone else is not clear.
10. Accordingly, the main ground advanced by the Petitioner is that even if the arrest was taken place within the jurisdiction of the Kalpitiya police, the Suspect and the substance had been subsequently handed over to the Putlam police station and the case was instituted in the Magistrate Court of Putlam. The Petitioner’s position is that no case can be instituted in the Magistrate Court of Putlam due to this issue. Regarding this jurisdictional issue, raised by the Petitioner, I am of the opinion that it is not a relevant matter to be considered in an application of this nature, nor is it the proper forum to raise such issue.
11. Secondly, the Petitioner has stated that the Magistrate Court case record does not disclose the time of arrest. In fact, when perusing the B-Report dated 14-01-2024 tendered by the police, it can be observed that the time of arrest of the Suspect has not been mentioned which casts a doubt on the prosecution’s version of events.

12. Another ground, though not expressly pleaded by the Petitioner in the application, but this Court has to take into consideration when determining an application of this nature, is the time period spent in remand custody by the suspect.
13. This Court in a long line of cases has held that the time period spent in remand alone will not suffice to consider granting bail to a suspect unless such delay amounts to an oppressive and inordinate delay. As held in ***Attorney General v. Ediriweera*** (S.C. Appeal No. 100/2005), “Delay is always a relative term and the question to be considered is not whether there was mere explicable delay, as when there is a backlog of cases, but whether there has been excessive or oppressive delay and this always depends on the facts and circumstances of the case...”.
14. Considering the legislative intent behind section 83(1) (Prior to the Amendment) of the Ordinance, it was stated in ***Labukola Ange Wisin Gedera Ashani Dhanushshika v. OIC Divisional Crimes Investigation Unit Panadura*** CA/PHC/APN/04/2016 (Court of Appeal Minutes dated 06-10-2016] as follows;

“The Petitioner’s first point is that the suspect is in remand nearly for two years. The intention of the Legislature is to keep in remand any person who is suspected of or accused of possessing or trafficking heroine until the conclusion of the case. The Section 83(1) of the Poisons, Opium and Dangerous Drugs Ordinance express the intention of the Legislature. It is enacted by the Parliament that “No person suspected or accused of an offence under section 54A or section 54B of this Ordinance shall be released on bail, except by the High Court in exceptional circumstances.”

15. The special bail provisions under Section 83(2) prescribe a stringent framework for certain types of narcotics offences, primarily to prevent suspects from absconding or re-engaging in similar criminal activities. This is due to the unique nature of drug-related offences, which are often committed in a highly organized and sophisticated manner. Therefore, if the courts grant bail solely on the ground of delay, without taking into consideration surrounding circumstances such as the previous conduct of the

suspect/ accused concerned, the quantity of the dangerous drug that has been recovered, the possibility of the suspect/ accused re-offending and evading the judicial process, the sophisticated manner in which the crime was committed and its impact on the society at large, then it would, in my view, defeat the very purpose of the Ordinance.

16. However, at the same time the Court should be mindful of the fact that the stringent provisions of a statute should not be used as a tool to deprive a person's liberty, thereby forcing them to live in trepidation without any knowledge of the progress of the investigation or the possible outcome of their case.
17. Our Courts have recognized the prejudice caused to an accused by lengthy and inordinate delays in prosecuting him. To elaborate further, the right to a speedy trial is not only aimed at expediting the administration of justice but also at preventing the oppression of a citizen by keeping a criminal prosecution hanging over them for an indefinite period.
18. Therefore, it is incumbent upon the relevant authorities to act with due diligence to avoid inordinate delays in prosecuting offenders. If the prosecution fails to act with due diligence and cannot explain the delay on their part, it would, in my opinion, constitute an exceptional circumstance as required by section 83 of the Poisons, Opium and Dangerous Drugs Ordinance.
19. The 1st suspect in the present case was arrested on 13.01.2024. The Government Analyst issued his report on 30.09.2024. However, in their Statement of Objections dated 03.10.2025, the respondents stated that, although an expert report had been requested in respect of the telephone conversations between the 1st and 2nd suspects, the said report had not yet been received and that the I.B. extracts relating to the investigation had also not been finalized.
20. The respondents have failed to explain to this Court the reason for the delay in obtaining the said expert report, notwithstanding that the initial request for the report had been made to the Government Analyst's Department as far back as 10.04.2024 (*vide* page 20 of the brief). Nor have they indicated any reasonable time frame within which the I.B.

extracts could be finalized and forwarded to the Attorney General's Department for the preparation of the indictment. In these circumstances, it cannot be reasonably anticipated that the Suspect will be served with the Indictment soon.

21. Furthermore, the Respondents, in their Statement of Objections has stated that the 1st Suspect has one previous conviction for possession of 180 milligrams of heroin. However, the previous convictions report has neither been annexed, nor any further details such as the relevant Magistrate Court and the case number under which he was prosecuted have been disclosed in the said Statement of Objections.
22. While this Court cannot lightly disregard the quantity of methamphetamine alleged to have been found in the possession of the 1st suspect, I am of the view that the delay of two years and five months, which delay the prosecution has failed to satisfactorily explain to this Court, constitutes an exceptional circumstance warranting the grant of bail.
23. Accordingly, I enlarge the 1st Suspect on bail subject to the following conditions:
- a. The 1st suspect shall furnish cash bail in the sum of Rupees Two Hundred Thousand (Rs. 200,000/-).
 - b. There shall be two sureties, one of whom shall be the petitioner.
 - c. Each surety shall enter into a bond in the sum of Rupees One Million (Rs. 1,000,000/-).
 - d. The 1st suspect shall report to the Officer-in-Charge of the Divisional Crime Bureau, Puttalam, on the first Sunday of every month between 9.00 a.m. and 10.00 a.m.
 - e. The 1st suspect shall surrender his passport, if any, to the Magistrate's Court of Puttalam.
 - f. The Controller General of Immigration and Emigration shall be informed of the travel ban imposed on the 1st suspect.

24. The Registrar of this Court is directed to communicate this bail Order to the Magistrate's Court of Puttalam, and the Officer-in-Charge of the Divisional Crime Investigation Bureau, Puttalam forthwith.

Judge of the Court of Appeal

P. Kumararatnam, J.

I agree.

Judge of the Court of Appeal