

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 15B of the
Prevention of Terrorism (Temporary
Provisions) (Amendment) Act No. 12 of
2022

Jayasinghe Arachchige Asilin

Dolosgodawaththa,

Ibbawala,

Weligama.

Petitioner

Court of Appeal Bail Application:
CA/BAL/ 448/2025

HC (Colombo): **5447/25**

MC (Colombo): **B 27181/23**

-Vs-

On behalf of the 4th Accused, Jayasekera
Withanage Ruwan Chamara *alias*
Midigama Ruwan

1. Officer-in-Charge,
Terrorist Investigation,
Colombo 01.

2. Hon. Attorney General,
Attorney General's Department,
Colombo 12.

Respondents

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

Pradeep Hettiarachchi, J.

Counsel : Jaliya Samarasinghe with Chaminda Ekanayake for the
Petitioner
Vishwa Wijesuriya, SC for the Respondents

Inquiry on : 08-06-2026

Decided on : 31-08-2026

Order

Background Facts

1. This Bail Application is preferred to this Court by the Petitioner named Jayasinghe Arachchige Asilin (hereinafter referred to as “the Petitioner”) on behalf of her son named Jayasekera Withanage Ruwan Chamara *alias* Midigama Ruwan (hereinafter referred to as “the 4th Accused”) in terms of Section 15B of the Prevention of Terrorism (Temporary Provisions) (Amendment) Act No. 12 of 2022 (hereinafter referred to as “PTA”).
2. The 4th Accused had been arrested at the Katunayake International Airport on 31-05-2024, for the commission of offences punishable under Sections 3 (a), (b) and 5 (a), (b) read with Section 2(1) (a), (c) and (e) of the PTA. At the time of arrest, he was on a warrant and on an international red notice and had been brought from Dubai to Sri Lanka by the law enforcement authorities.
3. The 4th Accused had been arrested in connection with the incident that took place in CID on 10-09-2023, where the 1st Accused, Nadun Chinthaka Wickremarathne *alias* Harak Kata (hereinafter referred to as “1st Accused”), who was under detention, had attempted to escape from the Criminal Investigation Department (hereinafter referred to as “CID”).
4. The Petitioner further states that after the 4th Accused was extradited from Dubai, he had been held in detention under the Detention Order No. MOD/ LEG/PTA/ 29/2024 in connection with the Magistrate Court of Mount Lavinia case bearing No. B 52269/22.

Thereafter, since no terrorist act had been revealed against the 4th Accused, he was remanded.

5. The Petitioner has urged *inter alia* the following grounds for consideration of granting bail to the 4th Accused;
 - (a) There is no evidence against the 4th Accused.
 - (b) As at the date of this Petition, the 4th Accused has been in remand for one year and three months since the date of his arrest, i.e., 31-05-2024.
 - (c) The Court should apply the statutory law, and when determining a case, the Court should only take into consideration the relevant facts.
 - (d) As per Section 15B (1) of the Prevention of Terrorism (Temporary Provisions) (Amendment) Act No. 12 of 2022, the maximum period a person can be detained is 12 months. Therefore, exceeding the said time period is illegal.
 - (e) Gravity of the offence committed should not be a reason for refusing bail.
 - (f) The 4th Accused has not committed any offence punishable under the PTA. In these circumstances, it is illegal to arrest and investigate the 4th Accused under the provisions of the PTA.
 - (g) The Petitioner's application for bail should not be automatically rejected merely because the 4th Accused was charged under the provisions of the PTA.
6. Furthermore, according to the Petitioner, the 4th Accused has cases bearing Nos. B 2368/23, B 3668/23, B 3804/23, B 4194/23, B 5578/ 23, B 1328/23, B 1038/24, B 5519/24 and B 27181/23 instituted against him at the Magistrate Court of Matara.

Analysis

7. Section 15 B of the PTA (as amended) states as follows;

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:

Provided however, notwithstanding the provisions of subsection (2) of section 15, the High Court may in exceptional circumstances release the suspect on bail subject to such conditions as the High Court may deem fit;

Provided further, where the trial against an accused in respect of whom the indictment has been forwarded and filed in the High Court has not commenced after the expiration of twelve months from the date of such filing, the High Court may consider to release such person on bail, upon an application in that behalf made by the accused or an Attorney-at-Law on his behalf.

8. Accordingly, if the trial against a suspect who is in remand custody or in detention has not commenced after the expiration of twelve months from the date of arrest, the Court of Appeal has the power to grant bail to such suspect upon an application made by the suspect or his attorney-at-law.
9. A careful examination of Section 15B of the PTA reveals that the Court of Appeal is vested with a discretion to grant bail to a suspect detained or remanded under the Act, provided that the trial has not commenced upon the expiration of 12 months from the date of arrest. The use of the word “may” in that Section clearly indicates that the grant of bail is not mandatory merely because the trial has not commenced after the lapse of the stipulated period.
10. The legislature, in its wisdom, has enacted Section 15B in a manner that permits the Court to exercise judicial discretion when considering applications for bail made by persons

detained or remanded under the Act. Accordingly, it is incumbent upon the Court to consider all relevant surrounding circumstances, including the likelihood of the suspect absconding, interfering with witnesses, or otherwise frustrating the due administration of justice, before granting bail.

11. In **CA/BAL/81/2022** (decided on 22-03-2023) it was held by the Court of Appeal that;

“Hence considering the grant of bail under the amended PTA which requires the discretion of the Court, one can refer accepted considerations such as the gravity and severity of the offence and the nature of the accusation; severity of punishment if convicted; the likelihood of the accused fleeing from justice; the possibility of tampering with evidence and/or the witnesses; the possibility of repetition of the offence or similar offence while on bail; prima facie satisfaction of the court in support of the charge including frivolity of the charge; the peculiar facts of each case and nature of supporting evidence etc. When the circumstances of a particular case is viewed in totality with other considerations such as the personal standing of the applicant and his or her ability to take part in the justice process in light of their personal commitments may also be considered. More importantly, courts can take cognizance of the progress made by investigating and prosecutorial authorities to process a complaint.”

12. It was submitted by the learned Counsel for the Petitioner that the 4th Accused is not a registered criminal and therefore, his fingerprints have not matched with the fingerprints of the registered criminals. It was further submitted that, even if he has three previous convictions, those are in relation to possession of minor quantities of Cannabis and Heroin.

13. According to the previous convictions and pending cases report marked R 2(b), the 4th Accused had previously been convicted by the learned Magistrate of Matara on four occasions between the period of 2019 August to 2020 September for possession of Cannabis and Heroin. This is indicative of the fact that the 4th Accused has a propensity to re-engage in criminal activities.

14. Furthermore, as per the report marked R3 (b), the 4th Accused has nearly five other pending cases for offences such as murder and causing mischief. There is also a pending case in the

Matara Magistrate Court against the 4th Accused for using a forged identity card for the purpose of money laundering under the case bearing No. BR 2001/20. He had been issued a warrant on 07-12-2023 until 29-08-2024 in the aforesaid case.

15. Also, it is pertinent to note that the 4th Accused was apprehended by the law enforcement authorities whilst he was in Dubai, pursuant to an international red notice. The fact that the 4th Accused had left the jurisdiction and was ultimately apprehended outside Sri Lanka is suggestive of the fact that he has left the country with a view to evading arrest and the judicial process. In the circumstances, I am of the view that the 4th Accused, if admitted to bail, poses a real and substantial risk of absconding and thereby frustrating the due administration of justice and the conduct of any future criminal proceedings against him.
16. The primary purpose of granting bail is to balance the constitutional presumption of innocence with the need to ensure the accused attends trial and remains safe from wrongful pre-trial detention. However, a court or judge may refuse to grant bail to a suspect if there are substantial grounds to believe that releasing him poses a clear risk to the legal process or public safety. Risk of absconding, interference with or tampering with evidence, intimidation of witnesses, the likelihood of reoffending, public safety, and the nature and gravity of the offence are among the key factors that may dissuade a court from granting bail.
17. In the present application, the 4th suspect has several pending cases before various courts and was on bail when he fled the country. Evidently, the 4th suspect left the country without obtaining the prior permission of the Court. Consequently, a Red Notice had to be issued, following which the authorities were able to arrest the 4th suspect and bring him back to the country. Therefore, the 4th suspect's conduct subsequent to being granted bail on an earlier occasion does not persuade this Court to release him on bail, notwithstanding the nature of the offence in respect of which he is presently detained or charged. The manner in which he fled the country after being granted bail clearly demonstrates his propensity to abscond and poses a real risk to the proper administration of the legal process.
18. Furthermore, he had been arrested for aiding and abetting the 1st Accused's escape attempt. Therefore, considering the 4th Accused's links to the underworld, we cannot rule out the

possibility of him trying to interfere with the witnesses or attempting to obstruct the course of justice if granted bail.

19. The 4th Accused in the present case had been arrested on 31-05-2024 and the indictment had been filed on 02-07-2025, nearly one year after the date of arrest. It is stated in the Statement of Objections of the Respondents that after the receipt of the Information Book Extracts pertaining to the case bearing No. B 27181/23, the 2nd Respondent has forwarded the indictment dated 02-07-2025 under the reference No. EER/07/2024, which is now being tried in the Colombo High Court under the case no. HC/ 5447/25.
20. Having regard to all the foregoing circumstances, I am of the view that the circumstances of this case do not warrant the exercise of the discretionary powers conferred upon this Court under Section 15B of the Prevention of Terrorism Act in favour of the 4th Accused.
21. Accordingly, the bail application of the Petitioner is dismissed. The Registrar of this Court is directed to transmit a copy of this Order to the Registrar of the High Court of Colombo and the Officer-in-Charge of the Terrorist Investigation Division of Colombo 01 forthwith.

Judge of the Court of Appeal

P. Kumararatnam, J

I agree,

Judge of the Court of Appeal