IN THE COURT OF APPEAL OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

In the matter of an application for Revision under and in terms of Article 138 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

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

Complainant

Court of Appeal Revision Application No.CA/CPA/71/26

High Court of Negombo
Case No. NGB/HC/PC(OT)/93/25

Vs,

1. Jayasinghe Karunathilake Rajapakshe Wasala Mudiyanselage Athula Lakshman Jayasinghe

2. Sandarathne Mudiyanselage Gayani Sandarathne

Accused

And Now Between

Edirisinghe Mudiyanselage Udaya Kumara Edirisinghe

Petitioner

Vs,

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

Complainant-Respondent

1. Jayasinghe Karunathilake Rajapakshe Wasala Mudiyanselage Athula Lakshman Jayasinghe

2. Sandarathne Mudiyanselage Gayani Sandarathne

Accused-Respondents

Before: **Amal Ranaraja, J.**
Dr. Sumudu Premachandra, J.

Counsel: Deshan Aluwihare with Vimukthi Karunarathne instructed by Kethmini Dharmasena for the Petitioner.

Wishwa Wijesuriya, SC, for the State.

Supported on: 29.09.2026

Order on: 16.10.2026

ORDER

Amal Ranaraja, J.

1. Section 422 of the Code of Criminal Procedure Act No. 15 of 1979 (as amended) provides as follows;

> *"**422.** **(1)** Whenever it is proved to the satisfaction of the court by which a bond under this Code has been taken, or when the bond is for appearance before a court to the satisfaction of such court that such bond has been forfeited, the court shall record the grounds of such proof and may call upon any person bound by such bond, to pay the penalty thereof or to show cause why it should not be paid.*
>
> *(2) If sufficient cause is not shown and the penalty is not paid the court may proceed to recover the same by issuing a warrant for the attachment and sale of the movable or immovable property belonging to such person.*
>
> *(3) Such warrant may be executed within the local limits of the jurisdiction of the court which issued it and it shall authorize the distress and sale of any movable or immovable property belonging to such person without such limits when endorsed by the Judge within the local limits of whose jurisdiction such properly is found.*
>
> *(4) If such penalty be not paid and cannot be recovered by such attachment and sale the person so bound shall be liable by order of the court which issued the warrant to simple imprisonment for a term which may extend to six months.*

(5) The court may at its discretion remit any portion of the penalty mentioned and enforce payment in part only."

2. As such, Section 422 in Chapter XXXVII of the Code of Criminal Procedure Act No. 15 of 1979 (as amended) outlines the procedure of forfeiting a bond. This includes bonds executed by sureties in bail orders.

3. When a Court is satisfied that a bond has been forfeited, it must record the grounds for such proof. The Courts shall then require the person bound by the bond, to show cause why the penalty stated in the bond should not be paid. If the court is not satisfied with the explanation provided, it may order the payment of the penalty.

4. The petitioner who is bound by a bond serves as a surety for an accused in the Negombo High Court case No. NGB/HC/PC(OT)/93/25. The accused is currently absconding, and the petitioner has not been able to bring the accused to Court as required.

5. Although, the petitioner asserts that he signed the bond only in the Negombo Magistrates Court and believed that his obligation was solely to produce the accused to that Court, where the accused was merely a suspect, the petitioner's argument does not hold in a legal context that increasingly emphasizes direct indictments.

6. If this Court accepts the argument that the petitioner is only required to bring the accused to the Magistrates Court, it could lead to an absurd situation. Such an interpretation would also undermine the seriousness of a surety's role in ensuring that an accused individual appears in court, especially in cases involving serious offences.

7. Furthermore, the petitioner has failed to submit an application under Section 18(1) of the Bail Act No. 30 of 1997, to request his release from bond obligations. Accordingly, the petitioner's claim lacks sufficient legal

grounding. The responsibilities of a surety extends beyond a singular Court appearance. Particularly, in cases where the accused is evading justice.

8. Furthermore, during the show cause inquiry, the petitioner has contended that he earned a meagre income and was therefore not financially able to pay the penalty in full. He has also not disclosed any property in his name, that would be liable for attachment and sale. Consequently, these circumstances have hindered the learned High Court Judge from acting as per the provisions in Section 422 (2) and (3) of the Code of Criminal Procedure Act No. 15 of 1979 (as amended).

9. Should the penalty not be paid, the term of imprisonment is six months simple imprisonment. If the petitioner defaults on this payment, he will be subject to six months simple imprisonment, not two years. Therefore, this Court directs that in the event of default on the penalty payment, the petitioner be sentenced to six months simple imprisonment.

10. Courts have long affirmed revisionary jurisdiction is a discretionary remedy invoked only in exceptional circumstances. The term "exceptional circumstances" in the case of revisionary jurisdiction has been interpreted to include the following;

    i. An obvious/clear miscarriage of justice

    ii. A plain error of law apparent on the face of the record

    iii. A jurisdictional defect that renders the disputed judgement/order void.

11. Given the matters presented, the disputed order is legal and has not resulted in a miscarriage of justice. Consequently, there is no merit in the instant application.

12. Accordingly, I am not inclined to issue formal notice on the respondents and dismiss the application.

Application dismissed.

13. The Registrar of this Court is directed to send this Order to the High Court of *Negombo for* information/compliance.

Judge of the Court of Appeal

Dr. Sumudu Premachandra, J.

I agree

Judge of the Court of Appeal