

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.

The Officer in Charge,
Wanathawilluwa Police station,
Wanathawilluwa.

Complainant

Vs

Case No: **CPA/0110/2025**

MC Puttalam Case No:
B39300/2025

1. Ranmutuge Rasika Rangana Atapattu
Director, Asha Minerals (PVT) LTD,
No. 103 C, Uttarananda Mawatha,
Colombo 03.

Presently at Wariyapola Prison.

Suspect

2. Officer –in-Charge,
Walana Anti-Corruption Unit,
Panadura.
3. Janitha Kumara,
Inspector of Police,
Walana Anti-Corruption Unit,
Panadura.
4. Asha Minerals (PVT) LTD
No.103 C, Uttarananda Mawatha,
Colombo 03.

Respondents

AND NOW

Ranmutuge Rasika Rangana Atapattu
Director, Asha Minerals (PVT) LTD,
No. 103 C, Uttarananda Mawatha,
Colombo 03.

Presently at Wariyapola Prison.

Suspect- Petitioner

Vs

1. The Officer in Charge,
Wanathawilluwa Police station,
Wanathawilluwa.

Complainant-Respondent

2. Officer –in-Charge,
Walana Anti Corruption Unit,
Panadura.
3. Janitha Kumara,
Inspector of Police,
Walana Anti Corruption Unit,
Panadura.
4. Asha Minerals (PVT) LTD
No.103 C, Uttarananda Mawatha,
Colombo 03.
5. Hon. Attorney General,
The Attorney General’s Department,
Colombo 12.

Respondent – Respondents

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

Pradeep Hettiarachchi, J.

Counsel : M.U.M Ali Sabry PC with Ruwantha Coorey and namik Nafath and Jahun Marrias for the Petitioner instructed by Sanath Wijewardane Associates.

Shavindra Fernando, PC with Sanjith Senanayake for the 4th respondent.

Malik Azeez, S.C. for the Respondents.

Argued on : 16.12.2025

Decided on : 19.12.2025

Pradeep Hettiarachchi, J

Order

1. This is a revision application filed by the suspect-petitioner (hereinafter referred to as the petitioner) seeking to have the order of the Learned Magistrate of Puttalam dated 11.11.2025 set-aside. The petitioner also requests this court to enlarge him on bail and also seeks interim orders directing the Magistrate to stay the order of the Magistrate until the final determination of the application.
2. The suspect petitioner is a director of a company named Asha Minerals Private Limited. Asha Minerals is a Sri Lankan Company which engages in extraction, separation and value addition on heavy Mineral Resources. A company named INSEE Cement entered into an indenture of lease with the Sri Lanka Cement Cooperation and engaged in mining and extracting limestone in the Aruwakkalu region on a land owned by the Sri Lanka Cement Cooperation. In the process of mining, they first removed red soil layers situated above the layer of soil which contained the limestone. Asha Minerals

discovered this red soil contained heavy minerals and proposed a value addition pilot project for the extraction and separation of heavy minerals from the said layer.

3. Accordingly, Asha Minerals made their presentation to the Geological Survey and Mine Bureau (GSMB). A technical evaluation committee meeting in that regard was held on 01.03.2023 and it was informed by the GSMG that Asha Minerals is required to have the land owner's consent and the environmental clearance. Asha Minerals took steps and forwarded an application to obtain a site clearance certificate from the Provincial Environmental Authority (North Western Province) Kurunegala. Subsequently, the Provincial Environmental Authority wrote to several approving agencies including the GSMB and the Archaeological Department Kurunegala.
4. After attending the formalities, there was a meeting held on 15.03.2022 to discuss the initial environmental examination report and later, Asha Minerals obtained the necessary environment clearance certificate.
5. In doing so, several institutions sent their clearance which included the Department of Forest Conservation, the Irrigation Department, the Wanathawilluwa Pradeshiya Sabha, the Divisional Secretariat Wanathawilluwa, the Water Resource Board, the MOH Puttalam and the Department of Archaeology.
6. In the petition it is stated that Asha Minerals has invested a sum of approximately 1.7 billion rupees for the said project.
7. On 09.08.2025 a team of officers from the Walana Crime Investigating Division entered the project site of Asha Minerals and seized machinery/equipment belonging to Asha Minerals. Subsequently, a report dated 11.08.2025 was filed before the Magistrate Court of Puttalam in case number B 39330/2025 alleging that Asha Minerals had caused damage to an archaeological site without the required approval.
8. Challenging the above report, Asha Minerals filed a writ application in the Court of Appeal bearing number WRT 829/2025. Furthermore, a fundamental rights application was also filed in the Supreme Court bearing number HCFR 146/2024, by some interested party.

9. The petitioner also filed an anticipatory bail application. However, on the 01.10.2025, the Learned Magistrate refused the said application. A further report was filed on 31.10.2025 at the Magistrate Court of Puttalam naming the petitioner and the other director as suspects.
10. On 11.11.2025, the Walana unit reported to court that Asha Minerals had purportedly violated conditions ii, iii, iv and vii of the conditional approval. In the meantime, Asha Minerals received a letter dated 21.10.2025 from the Department of Archaeology, stating that the conditions on the approval letter dated 03.05.2024 had been violated by Asha Minerals.
11. The petitioner was summoned by the Walana unit on the 10.11.2025 and a lengthy statement was recorded and thereafter, he was arrested and produced before the Magistrate Court of Puttalam and has been in remand custody since then.
12. The exceptional circumstances urged by the petitioner in this revision application are as follows:
 - a) The learned Magistrate has acted mechanically by egregiously failing to consider the material on record, specially when:
 - i. The impugned Report (“Z4”) of the Complainant-Respondent demonstrably fails to set out, even in summary, the contents of the Petitioner’s statement despite admitting that the statement was comprehensive (in that, the taking of the statement started at 11.15 hours on 10th November 2025 and concluded at 05.35 hours on 11th November 2025 with 140 documents being marked);
 - ii. The said statement was not brought to the eyes and ears of the learned magistrate, who failed in his sacrosanct judicial duty to even call for the same;
 - iii. The “prosecuting” officer himself has admitted that the land “අංක 24 දරණ පුරා වස්තු සංරක්ෂණ පනතේ 12 වන වගන්තියෙන් සංරක්ෂිත 1940 අංක 09 දරණ පුරා වස්තු පනතේ 43(අ)(1) විස්තර කෙරෙන ලංකා පුරා විද්‍යා උරුමය පිළිබඳ ලේඛනයට ඉදිරියේ දී ලැබිය හැකි හැමියක බවත්”.

And, thereby, failed to act judiciously, *inter alia*,

- i. By failing to ascertain whether the subject matter fell within the purview of the Antiquities Ordinance (as amended);
 - ii. By failing to ascertain whether there was sufficient material to disclose an offence under the Antiquities Ordinance (as amended);
 - iii. By failing to evaluate the comprehensive statement/response of the Suspect-Petitioner;
 - iv. By simply remanding the Petitioner in the absence of any form of justification;
- b. The failure of the learned Magistrate to act judiciously is buttressed by the fact the learned Magistrate has failed to set out his reasons for depriving/curtailing the Petitioner's liberty, and, thereby acted arbitrarily;
- c. The learned Magistrate's purported order is *per incuriam* and *per se* in sweeping contradiction of the well- established rich jurisprudence of our country;
- d. There is no evidence placed before the learned Magistrate that discloses/justifies that the Petitioner should be placed in remand custody;
- e. The learned Magistrate failed to exercise most anxious care, especially when dealing with draconian legislative provisions such as the Antiquities Ordinance (as amended);
- f. Manifest violation of Section 15C of the Antiquities Ordinance, *inter alia*, since the Petitioner has to date neither been charged nor accused within the meaning of the law;
- g. The antiquities Ordinance does not clearly define and distinguish liability of natural persons and that of body of persons in the offences it creates; in the absence of the same, the Petitioner cannot be found liable (arrested and/or incarcerated); and further the ordinance does not create situational liability for Directors of a Company alleged to have violated it;

- h. There is no evidence before the learned Magistrate to demonstrate that this case is a matter falling within the Antiquities Ordinance, especially Section 43A read with section 43B of the Antiquities Ordinance;
- i. There is no determination/certification of the Department of Archaeology in terms of the Antiquities Ordinance placed on record before the learned Magistrate determine that Asha Minerals or the Petitioner has violated the conditions subject to which approval were given;
- j. There is no violation of the conditions subject to which approval was granted by the Department of Archaeology, as disclosed by the material on record;
- k. No offence has been disclosed under the Public Property Act No. 12 of 1982 (as amended) nor has the requisites set out in the Public Property Act has been met for possible offences under the Public Property Act.

13. Based on the above grounds the petitioner seeks relief as prayed for in the prayer to the petitioner.

14. It is section 15C of the Ordinance which prohibits grant bail to a person charged or accused of any offence under this Ordinance. Section 15C reads:

Notwithstanding anything to the contrary in the Code of Criminal Procedure Act, No. 15 of 1979. or any other written law, no person charged with, or accused of an offence under this ordinance shall be released on bail.

15. Offences reported under the Antiquities Ordinance are on the rise and are very often committed in a highly organised manner, sometimes with the involvement of foreign elements. In most cases, the mastermind behind the crime remains undisclosed, with certain accomplices being put forward instead. Operating from behind the scenes, such masterminds spend lavishly to shield their henchmen from the arm of the law. Consequently, investigations become extremely difficult, and bringing the real culprits to book poses a significant challenge.

16. The legislature, in its wisdom, has enacted stringent laws to curb offences committed in respect of sites of archaeological value, as such offences affect the entire nation. In most instances, the damage caused cannot be assessed in monetary terms, given the

immense archaeological value and historical importance attached to the respective sites and artefacts.

17. It is noteworthy that the objective of the Ordinance, as reflected in its preamble, is to ensure the better preservation of antiquities in Sri Lanka, as well as sites and buildings of historical or archaeological importance. The primary rationale behind the enactment of these stringent provisions, particularly the prohibition on the grant of bail to persons charged or accused of offences under the Ordinance, is to achieve a measure of pre-conviction deterrence. This legislative intent is further underscored by the fact that even the violation of any condition imposed is itself made an offence under Section 43B of the Ordinance.
18. However, it must be emphasized that the more stringent the statutory provisions, the greater the degree of caution that is required when considering the merits of an application for incarceration.
19. It is true that Section 43B of the Ordinance provides that any violation of the conditions stipulated in a particular approval would amount to an offence under the Ordinance.

Section 43B reads:

(1) Where approval or permission has been granted for any scheme or project subject to any condition or alteration, it shall be the duty of the sponsors to comply with it. Failure to comply with any condition or alteration shall be an offence under this Ordinance and the Director-General of Archaeology may cause such scheme or project to be stopped forthwith.

(2) Where a scheme or project has been so stopped, work on such scheme or project shall not be commenced until the condition or alteration subject to which the approval or permission was granted is adequately complied with by the sponsors and a written permission in that behalf is obtained from the Director-General of Archaeology.

20. However, in such a situation, the Director-General is empowered to act and may require the party concerned to rectify the violation.
21. In my view, the violation of conditions should not be considered in isolation, but must be assessed in conjunction with the legislative intent underlying the Ordinance. The

intention of the legislature, as clearly and unambiguously expressed in the preamble, is to preserve the antiquities of the country and of the sites and buildings of the historical or archeological importance in the country. Accordingly, a purely technical or procedural violation of a condition should not, in my opinion, be treated as an offence to which Section 15C applies, particularly where the Director General of Archaeology himself reports and certifies that such violation has not resulted in any damage to, or adversely affected, any archaeological heritage site or antiquity.

22. In the present case, no action has been taken nor has any direction been issued by the Director-General in terms of Section 43B (2). Instead, the police filed a 'B' report and produced the Petitioner before the Magistrate, who remanded the Petitioner.
23. It is evident that the site on which the project in question was carried out by the petitioner is neither an archaeological site declared by the State nor a national heritage site. Document marked 2R1(d) is a letter dated 25.07.2025 issued by the Director General of Archaeology in response to a questionnaire dated 20.07.2025 marked as 2 R1(C) sent by the Officer-in-Charge of the Walana Central Anti-Vice Striking Unit, which contained four principal queries.
24. In the said letter, the Director General of Archaeology has clearly stated that the land in question is not an archaeological site declared by Gazette dated 19.02.2021. It is further stated therein that the said land is not an inventorised archaeological heritage. More importantly, in answering the third question in the said questionnaire, the Director General stated that the land described in the letter may be inventorised as an archaeological heritage in the future, but only after a formal archaeological exploration.
25. Moreover, the Director General informed that Asha Mineral (Pvt) Ltd. had been granted approval for washing soil, but not for excavation. Once again, the Officer-in-Charge of the Walana Unit addressed a letter dated 29.07.2025 to the Director General of Archaeology seeking clarification regarding the nature of the approval granted to Asha Mineral (Pvt) Ltd. for the construction of a water tank. This was responded to by the Director General in a letter dated 01.08.2025.

26. Thereafter, the Officer-in-Charge of the Walana Unit forwarded a further questionnaire dated 08.10.2025 to the Director General of Archaeology, which was replied to by letter dated 16.10.2025. It is significant to note that none of these communications from the Director General of Archaeology disclose any damage caused to an archaeological heritage or any artefact as a result of the activities carried out by Asha Mineral (Pvt) Ltd.
27. None of these letters were available before the learned Magistrate at the time the petitioner was produced before him, and consequently, the Magistrate did not have the benefit of considering those documents when making the relevant order.
28. The sole grievance articulated by the Director General of Archaeology is that Asha Mineral (Pvt) Ltd. had acted in violation of certain conditions contained in the Letter of Approval dated 03.05.2024.
29. What is discernible from the aforesaid correspondence issued by the Director General of Archaeology is that the activities carried out by Asha Mineral (Pvt) Ltd. was not within an archaeological heritage site. Furthermore, there is no evidence to suggest that the petitioner committed any offence in relation to an archaeological heritage.
30. On behalf of the State, it was contended that a violation of the conditions contained in the initial approval would amount to an offence in terms of Section 43B of the Ordinance.
31. Penal provisions must be strictly construed, and criminal liability cannot be inferred by implication or by administrative interpretation. As stated earlier, in interpreting Section 43B, the intention of the legislature must not be disregarded. Thus, in my view, Section 43B does not criminalise every deviation from the conditions of an approval; rather, it criminalises only those acts that interfere with, or cause damage to, protected archaeological heritage.
32. It was further contended that if the Magistrate lacks the power to grant bail, the Court of Appeal likewise cannot exercise its revisionary jurisdiction to grant bail. I

respectfully disagree with this argument for the reasons set out below in the present case.

33. In the absence of any evidence that the petitioner's activities were carried out within a protected archaeological site, or that any archaeological heritage or artefact was damaged, destroyed, or unlawfully excavated, a mere violation of a condition set out in the approval letter does not, in my opinion, give rise to the commission of an offence under the Ordinance.
34. Consequently, for the reasons aforementioned, the State's contention that the violation of any condition would amount to an offence cannot be regarded as a sensible or tenable interpretation.
35. In the circumstances, I hold that the prohibition against the grant of bail stipulated in Section 15C of the Ordinance does not apply to the petitioner in the present case, as the Director General of Archaeology herself has reported and certified in 2R1(d) that such violation of condition has not-caused any damage to any site of archaeological value, nor has it resulted in damage to any antiquity. Therefore, the Magistrate is not precluded from considering the grant of bail.
36. It is also desirable to emphasise the need for vigilance, particularly when dealing with cases instituted under statutes that contain no express bail provisions. Stringent provisions are incorporated in certain laws solely for the purpose of pre-trial or pre-conviction deterrence, in order to prevent the reoffending of particular categories of crimes.
37. However, these stringent provisions should not be allowed to serve as a device to arbitrarily deny a person's liberty, as such denial would constitute a violation of the fundamental rights guaranteed under the Constitution and would be both illogical and irrational. Parliament could not have intended to keep a person in remand, contrary to the principle of the presumption of innocence, where no credible information has been presented indicating that the person has committed an offence.
38. Furthermore, Courts, when considering bail applications, should endeavour to maintain a fine balance between societal interests and personal liberty, while adhering to the

fundamental principle of criminal jurisprudence that an accused is presumed to be innocent until found guilty by a competent court.

39. The complaint filed against the accused needs to be thoroughly examined including the aspect whether the complainant has filed false or frivolous complaint. It must also be noted that it is imperative for the courts to evaluate the facts of the case with careful and meticulous precision. The discretion must be exercised on the basis of the available material and the facts of the particular case.
40. For the reasons stated above, it is my considered view that the learned Magistrate could have consider granting bail for the petitioner despite being produced under the Antiquity Ordinance as the report submitted by the Director General of Archeology itself evinces that the place where Asha Mineral PVT Ltd carried their activities do not fall within a declared archeological heritage.
41. Upon consideration of the above, the petitioner is granted bail subject to following conditions:
- a. A cash bail of Rs. 200000.00 with three sureties.
 - b. Sureties must enter into a bond of Rs 5 million each.
42. The registrar of this court is directed to communicate this bail order to the Magistrate Court Puttalam and Walana Crime Investigation Unit forthwith

Judge of the Court of Appeal

P. Kumararatnam, J.

I agree,

Judge of the Court of Appeal