

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

In the matter of a Revision Application in terms of Article 138 of the Constitution, read with Article 145 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

Office-In-Charge,
Crime Division,
Western Province North,
Peliyagoda.

COMPLAINANT

Court of Appeal Revision Application

Case No: REV-001/2026

-Vs-

Negombo High Court Bail

Application Case No: HC BAIL 531/25

Minuwangoda Magistrate Court

B 3742/23

1. L.B. Mary Allis
2. A.S. Madushan De Silva
3. W. Dileepa Madusanka
4. J.C. Krishantha De Silva
5. R.D.D. Buddhika Dayaratne
6. Walimuni Dewage Hasitha
Chanaka Jayasundara

7. Loku Hetti Arachchige Nalaka
Sampath Kumara.
8. Suraweera Arachchige Gayani
Dilrukshi.
9. Jayathilaka Mudiyansele
Shriyantha Saman Kumara
Jayathilaka.
10. Athampola Arachchilage Don
Avishka Madushan

SUSPECTS

AND NOW BETWEEN

Parape Arachchi Hewa
Kankanamlage Sumudhi Upeksha
Abeysekara,
72/15/2, Komillawaththa,
Indurugolla,
Wathurugama

PETITIONER

1. Office-In-Charge,
Crime Division,
Western Province North,
Peliyagoda.

COMPLAINANT-RESPONDENT

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

2nd RESPONDENT

AND NOW BETWEEN

Athampola Arachchilage Don Avishka
Madushan,
17, Dagonna Road,
Kimulapitiya,
Negombo.

10th SUSPECT-PETITIONER

Vs.

1. Office-In-Charge,
Crime Division,
Western Province North,
Peliyagoda

COMPLAINT-RESPONDANT-RESPONDENT

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

2nd RESPONDENT-RESPONDENT

**Before: Hon Justice B. Sasi Mahendran, J.
Hon Justice R.P. Hettiarachchi**

Counsel : Asela Serasinghe for the petitioner
Haleema Faiz S.C. for the state

Supported On: 26.03.2026

Order On: 14.05.2026

ORDER

B. Sasi Mahendran, J.

The 10th Suspect Petitioner (hereinafter referred to as Petitioner) has invoked the revisionary jurisdiction of this court by Petition dated 2nd January 2026 seeking the following reliefs,

1. Issue notice of this revision application on the Respondents,
2. Revise the orders dated 18-06-2025, 25-09-2025 and 16-12-2025 in Negombo High Court Bail Application Case No: HC Bail 531/25, by relaxing the 2nd bail condition of the bail order dated 18-06-2025 which insists on Rs. 5,000,000/- bail bonds for 04 sureties with bank accounts or assets of the sureties to be held by the Court as a bail condition,

3. Revise the order dated 18-06-2025 in Negombo High Court Bail Application Case No: HC Bail 531/25, by relaxing the 1s bail condition which imposes cash bail of Rs. 1,000,000/- as a bail condition,
4. Grant such other and further relief

The facts and circumstances of this case are as follows,

According to the Petitioner, he was arrayed as the 10th suspect in Magistrate's Court of Minuwangoda Case No. B 3742/23 on allegations of conspiracy to commit murder and grievous hurt said to have occurred on 17.06.2023, offences allegedly punishable under the Prevention of Terrorism Act. He further states that he was arrested on 10.06.2024 at Bandaranaike International Airport upon his return to Sri Lanka from Dubai.

The Petitioner states that he is presently incarcerated at the Boossa Prison in connection with Magistrate's Court Case No. B 3742/23 and continues to remain in remand custody.

The Petitioner further states that he previously invoked the original bail jurisdiction of the High Court of Negombo in respect of this matter and that, by Order dated 18.06.2025 in HC Bail Application No. HC Bail 531/25, he was granted bail which is marked as P1.

The Petitioner states that by Order dated 18.06.2025, the learned High Court Judge imposed, *inter alia*, the following bail conditions:

1. Cash bail in a sum of Rs. 1,000,000/-;
2. Four sureties in a sum of Rs. 5,000,000/- each.

According to the Petition due to his inability to comply with the 2nd bail condition imposed by the learned High Court Judge, an application was made by Motion on

25.09.2025 through Attorney-at-Law seeking a relaxation of the said condition. The said application was refused by the learned High Court Judge.

The Petitioner further states that another Motion dated 16.12.2025 was thereafter filed on his behalf seeking a relaxation of the said 2nd bail condition, which application was refused by the learned High Court Judge.

Being dissatisfied with the Orders dated 18.06.2025, 25.09.2025, and 16.12.2025 made in HC Bail Application No. HC Bail 531/25, the Petitioner has invoked the revisionary jurisdiction of this Court alleging that the impugned bail conditions have caused a grave miscarriage of justice amounting to exceptional circumstances.

Before delving into the merits of this matter, it is pertinent to consider the meaning and nature of bail.

“The term "bail" is defined in Black's Legal Dictionary as the process by which a person is released from custody on the undertaking given by a surety or on his or her recognizance to appear in a future stage of the proceedings of court. Bail could be granted to a suspect during the stage of investigation or to an accused whose case is pending before court, or even to a person who has been convicted, on his preferring an appeal against his conviction.”

At this juncture it is pertinent to refer to Section 7 of the Bail Act No. 30 of 1997

“7. Manner in which a person suspected or accused of a bailable or non-bailable offence may be released on bail.

*(1) whenever any person suspected or accused of, being concerned in committing or having committed, a non-bailable or bailable offence appears, is brought before, or surrenders, to the court having jurisdiction, the court **may** release such person-*

(a) on and undertaking given by him to appear when required;

(b) on his own recognizance;

(c) on his executing a bond with one or more sureties;

(d) on his depositing a reasonable sum of money as determined by court; or

(e) on his furnishing reasonable certified bail of the description order by court;

Provided that where the person has appeared before court on summons and is ordered to be released, he shall be enlarged on his own recognisance or on his giving an undertaking to appear when required, unless to be reasons to be recorded, the court orders otherwise.

(2) Where any person is required to execute a bond, under paragraph (c) of subsection (1), the court may permit such person to deposit a sum of money to the credit of the account of the court at the appropriate bank, in lieu of executing such bond.

(3) Where any person is released on his executing a bond under paragraph (c) of subsection (1) with one or more sureties, such person shall attend at the time and place mentioned in the bond and shall continue to so attend until otherwise directed.” [emphasis added]

The said section provides that a Court “may” releases a suspect or accused person subject to such forms of bail was set out therein. The use of the word “may” clearly signifies that the legislature has vested a discretionary power in the Court with regard to the nature and extent of bail conditions to be imposed depending on the facts and circumstances of each case. Accordingly, the imposition of cash bail and surety conditions by the learned High Court Judge in HC Bail Application No. HC Bail 531/25 falls within the lawful exercise of such judicial discretion.

During the support stage state counsel informed the court that the Petitioner had 8 serious criminal pending cases and also, he was arrested while he was returning

from abroad. For that very reason, the learned High Court Judge imposed stringent bail conditions to ensure the Petitioner's presence at trial.

It should be noted that revision is an extraordinary remedy. Courts are generally reluctant to exercise revisionary jurisdiction unless the Petitioner is able to establish exceptional circumstances or demonstrate that the impugned order is so unreasonable or unjust that it shocks the conscience of the Court.

Furthermore, State Counsel as set out in the objections has correctly pointed out that the Petitioner has failed to demonstrate any exceptional circumstances that would warrant the exercise of this Court's revisionary jurisdiction.

In the case of *Sadi Banda v. Officer in-Charge, Police Station, Norton Bridge*, 2014 (1) SLR 33 at page 37, Malinie Gunaratne, J held that;

"The revisionary power of Court is a discretionary power. This is an extraordinary jurisdiction which is exercised by the Court and the grant of relief is entirely dependent on the discretion of the Court. The grant of such relief is of course a matter entirely in the discretion of the Court, and always be dependent on the circumstances of each case. Existence of exceptional circumstances is the process by which the Court should select the cases in respect of which the extraordinary power of revision should be adopted. The exceptional circumstances would vary from case to case and their degree of exceptionality must be correctly assessed and gauged by Court taking into consideration all antecedent circumstances using the yardstick whether a failure of justice would occur unless revisionary powers are invoked."

We are also mindful of the fact that the Petitioner had previously absconded from Court proceedings and was subsequently arrested upon his return from abroad. It is well established that, in revisionary applications, Courts take into account the conduct of the accused in determining whether intervention is warranted and whether discretion has been properly exercised.

In the case of *Senatileke v. The Attorney General and another*, 1998 (3) SLR 290 at page 293, Jayasuriya J held that;

*“The present application is an application in revision. This is an extraordinary jurisdiction which is exercised by the Court of Appeal and the grant of relief is entirely dependent on the discretion of the court. Here the accused's father is seeking discretionary relief from the Court of Appeal and in considering the grant of discretionary relief, the court will closely examine the **conduct of the accused person**. In the exercise of a discretion the court scrupulously looks into the conduct of the ultimate party who is deriving benefit from the orders to be made by the court in revision.” [emphasis added]*

In the circumstances of this case, my considered view is that the learned High Court Judge having considered the nature of the allegations, the conduct of the accused and imposed conditions deemed appropriate, this Court sees no basis to interfere with the exercise of that discretion.

Accordingly, the Orders dated 18.06.2025, 25.09.2025, and 16.12.2025 are affirmed.

Application dismissed.

JUDGE OF THE COURT OF APPEAL

Amal Ranaraja, J.

I AGREE

JUDGE OF THE COURT OF APPEAL