

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

*In the matter of an application
under and in terms of Section 10 of
the Assistance to and Protection to
victims of crime and witnesses Act
No. 04 of 2015.*

Court of Appeal case No: 02/2016

Munaweera Thanthrige
Banduwathi,
No: 20/7,
Sagabo Mawatha, Dankatiya,
Tangalle.

**Tangalle Magistrate Court
case No: BR 172/2016**

Petitioner

Vs.

1. Officer in Charge
Police Station,
Tangalle.
2. Attorney General,
Attorney General's Department,
Colombo 12.

Respondents

Prasanna Wanigasinghe *alias*
Sitiya
(Now in custody of prison)

Suspect - Respondent

Before : P.R. Walgama, J

: K.K. Wickramasinghe, J

Counsel : Amila Palliyage for the Accused - Appellant.

: V. Hettige DSG for the AG.

Argued on : 13.02.2017

Decided on : 23.05.2017

CASE-NO- CA-02 /2016- ORDER- 23/05/2017

P.R. Walgama, J

The instant order concerns an application made by the Petitioner in terms of Section 10 of the Assistance to and Protection to victims of crime and witnesses Act No. 04 of 2015, for the release of the Suspect - Respondent who is now in remand custody.

The facts emanate from the petition of the Petitioner are stated here under;

That the 1st Respondent instituted action against the Suspect - Respondent in the Primary Court Tangalle bearing

case No BR 172/16 in terms of Section 314,316 ,433 and 486 of the Penal Code and Section 8(a) (b), 5(a) (b),(c) and 9 of the Assistance to and Protection to victims of crimes and witnesses Act No. 04 of 2015.

As stated above the Suspect-Respondent was charged for having voluntarily causing hurt and having threatened to cause the death of one Loku Geeganage Asoka Chandrani and Ruppagoda Gamage Thilini Karunaratne who are the witnesses in the case bearing No. NS 12859 in the Magistrate Court of Tangalle.

It is to be noted the said charge is an offence under Section 8 and 9 of the above stated Act.

Section 8 (1) of the Assistance to and Protection to victims of crime and witnesses Act states as follows;

“ Any person who (a) threatens a victim of crime or a witness with injury to his person, reputation or property or to the person or reputation or property of any other in whom of such victim of crime or witness has an interest, with the intention of causing alarm to such victim of crime or witness to refrain from lodging a complaint against such person with a law enforcement authority or testifying at any judicial or quasi – judicial proceedings or to compel such victim of crime to withdraw a complaint lodged or legal action instituted against such person : or

(b) voluntarily causes hurt to a victim of crime or a witness, with the intention of causing such victim of crime or witness to refrain from lodging a complaint against such

person with a law enforcement authority, or testifying at any judicial or quasi-judicial proceedings or to compel such victim of crime to withdraw a complaint lodged or legal action instituted against such person, or in retaliation for a statement made or testimony provided by such victim of crime or witness in any court of law or before a Commission, against such person.

Commits an offence, and shall on conviction by a High Court, be sentenced to term of a term of imprisonment not exceeding ten years and to a fine of rupees twenty thousand.”

Section 9 of the Assistance to and Protection to victims of crime and witnesses Act states;

“ Any person who attempts to commit, instigates or intentionally aids any other person to commit or engages in any conspiracy for the commission of any offence referred to in Section 8, shall be guilty of an offence and shall on conviction by the High Court be sentenced to the same punishment provided for that offence, by that section.”

It is to be noted that as per Section 10 (1) (a) of the said Act has specifically states that any offence committed under above Sections only the Appellate Court can grant bail under exceptional circumstances.

The Suspect – Respondent has been in remand custody more than for one year, and besides he was also in remand custody for one year as a suspect in the case of NS 12859/13. It is stated that the Suspect – Respondent was taken in to custody

in respect of the instant case, as soon as he was enlarged on bail on the above case No. NS 12859/13. Therefore the petitioner on behalf of the Suspect – Respondent urges from this Court to enlarge him on bail. Further it is also noted that he is the sole supporter of the family.

The SSC had no objection for the above said application of the petitioner. Considering the afore said exceptional circumstances, bail is granted subject to the following conditions.

The Petitioner shall deposit a sum of Rs. 10,000/- in cash.

Shall enter into a personal bond to the value of Rs. 100,000/- and a certified bond to the value of Rs. 20,000/-.

Shall not interfere with the witnesses in the above case. Accordingly application for bail is allowed.

JUDGE OF THE COURT OF APPEAL

K.K.Wickramasinghe, J

I agree.

JUDGE OF THE COURT OF APPEAL