

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

Head Quarters Inspector,  
Head Quarter Police Station,  
Mullaitivu.

Complainant

C.A. Case No. C.A. B.A. 08/2019

M.C. Mullaitive Case No. B 1269/2018

V.

Abdul Cader Misiriya,  
Wannakulam,  
Mullaitivu

Suspect

**And Now Between**

Abdul Cader Misiriya,  
Wannakulam,  
Mullaitivu

Suspect/ Petitioner

Head Quarters Inspector,  
Head Quarter Police Station,  
Mullaitivu.

1. Complainant/Respondent

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

2. Respondent

**BEFORE** : **K.K. WICKREMASINGHE, J**  
**K. PRIYANTHA FERNANDO, J**

**COUNSEL** : N.S.N. Faris with N.J.F. Sumaiya and  
Ayomi Wanniarachchi for the Suspect  
Petitioner.

Nayomi Wickramasekara SSC for the AG.

**ARGUED ON** : 28.06.2019

**DECIDED ON** : 07.08.2019

**K. PRIYANTHA FERNANDO, J.**

01. This is an application for bail made by the suspect Petitioner (Petitioner) in terms of Section 10 of the Assistance to and Protection of Victims of Crime and Witnesses Act No. 04 of 2015.
  
02. According to the facts of the case, there had been a complaint made by one Sivagnanavel Janani against one Imran Khan who is the son in law of the Petitioner for assault and robbery, on 14.09.2018, to the Mulathivu Police Station. It is alleged, that the following day on 15.09.2018 at about 6.00 p.m., the Petitioner along with her daughter who is Imran Khan's wife had come and threatened the said Janani and her sister Shive Abhirami and Thawamani, for making the complaint to the police. Same day at 8.00 p.m., they have made the complaint to the police. Police have arrested the

Petitioner and produced her before the Mulathivu Magistrate. It was reported that the suspect Fathima Mapasha (Imran Khan's wife) after threatening the complainants had left for Thalei-Mannar where she resides. Although police have sent messages through Thalei-Mannar police she had not surrendered to the Police.

03. In terms of section 10 (1) (a) of the said Act, the alleged offence is cognizable and non bailable and no person suspected, accused or convicted of such an offence shall be enlarged on bail, unless under exceptional circumstances by the Court of Appeal.
  
04. As exceptional circumstances it is submitted that, the Petitioner is 60 years old, and had resettled with her husband in Mullaitivu from Puttalam. Her son in law is also still in remand custody. They have made complaints to the learned Magistrate, of torture and ill treatment of her son in law. They also had made complaints to the Human Rights Commission, and Defence Secretary. It is submitted that the Petitioner was arrested only on 11.11.2018, although the complaint was made on 15.09.2018. It is submitted that, police attempt to take revenge from them, because of the complaints made by them to the Human Rights Commission.
  
05. The above personal circumstances averred in this case, cannot be considered as exceptional circumstances to grant bail. It is to be noted that, the complainants have made the complaint on the same day within about 02 hours after the alleged threat. Just because the police have delayed the arrest of the petitioner, on that alone, one

cannot say that the complaint is a fabrication. Evidence on the substantive matter where Imran Khan is a suspect, cannot be considered at this stage. The second suspect Fathima, (Wife of Imran Khan) is yet to be arrested or to surrender to the police. Hence, the circumstances urged cannot be considered as exceptional to grant bail.

Application for bail is refused.

**JUDGE OF THE COURT OF APPEAL**

**K.K. WICKREMASINGHE, J**

I agree.

**JUDGE OF THE COURT OF APPEAL**