

**IN THE COURT OF APPEAL OF THE DEMOCRATIC SOCIALIST**

**REPUBLIC OF SRI LANKA**

In the matter of an application for bail under Section 10 (1) (a) of the Assistance to and Protection of Victims of Crimes and Witnesses Act No.4 of 2015

The Officer in Charge

Police Station,

Sooriyawewa

**Complainant**

Vs.

Kadurupokuna Wanni Arachchige  
Pradeep Kumara,

No: 239, Kelkiri Obada Village,  
Karuwalagaswewa Road,

Thelawilla.

**Suspect**

**And Now**

Kadurupokuna Wanni Arachchige  
Chaminda Kumara,

No: 587, Nawa Andarawewa Road,

Namadagaswewa,

Sooriyawewa.

**Petitioner**

Vs.

Court of Appeal Case No:  
**CA/BAL/45/2021**

Magistrate Court of Hambanthota Case  
No: **BR 368/2020**

1.The Officer in Charge

Police Station,

Sooriyawewa

**Complainant- Respondent**

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

**2<sup>nd</sup> Respondent**

3. Kadurupokuna Wannu Arachchige  
Pradeep Kumara

**Suspect- Respondent**

(Presently at Angunakolapelessa  
Remand prison)

Before: Menaka Wijesundera J.

Neil Iddawala J.

Counsel: Sharmel Herath for the

Petitioner instructed by

Wellappili Associates.

Indika Nelummini, SC for the

State.

Argued on: 12/09/2022

Decided on: 14/09/2022

**MENAKA WIJESUNDERA J.**

The instant bail application has been filed under the provisions of the Assistance to and Protection of Victims of Crimes and Witnesses Act No.4 of 2015. The suspect in the instant matter was produced before the magistrate of Hambanthota for an offence under Section 365(1)(b). The Attorney General has filed an indictment for the same offences in the High Court of Hambanthota. The virtual complainant in that matter namely Ranepurage Sureka Damayanthi has lodged a complaint in the Suriyawewa police for an offence of intimidation against the suspect on 27.02.2020. The Police had filed B Report under the provisions of the above Act against the suspect and he had been in remand since 28.02.2020.

The Counsel for the suspect is canvassing Bail on the basis of the long period in remand which according to the Counsel for the Petitioner is nearly 20 months up to date.

The State Counsel appearing for the Attorney General stated that indictment for the instant matter has been dispatched and pleaded further that the suspect has not urged any exceptional circumstances.

According to the provisions of the above Act if a suspect who is arrested or charged under this Act is to be enlarged on bail, the said suspect must urge exceptional circumstances and it should be considered by the Court of Appeal. The term exceptional has not been defined in the Act, but, in many of our cases decided, it has been held that exceptionality differs from case to case. **As such in the instant matter the suspect being in remand for nearly 20 months without he being tried by a Court of Law is exceptional enough to grant bail for the suspect, on the basis that the instant Act has stated very clearly that matters under this Act should be given precedence over other matters. Therefore, a delay of 20 months without due administration of justice is in the mind of this Court is an exceptional situation to grant bail for the suspect namely Kadurupokuna Wannu Arachchige Pradeep Kumara.**

**As such the instant application is allowed and the suspect above named is enlarged on following conditions of bail,**

- (i) A cash bail of Rs.50,000,**
- (ii) Two sureties to the value of Rs.100,000 each,**

- (iii) The suspect to report to the relevant Police Station on every Sunday of the month and the suspect is severely warned not to interfere with the virtual complainant or her family, if it is reported, then the instant bail order would be cancelled**

The Registrar of this Court is directed to convey the above order to the relevant Magistrate Court of Hambanthota.

**Judge of the Court of Appeal.**

**I agree.**

**Neil Iddawala J.**

**Judge of the Court of Appeal.**