

IN THE COURT OF THE APPEAL OF THE DEMOCRATIC SOCIALIST

REPUBLIC OF SRI LANKA.

In the matter of an application for bail under terms of Section 10 (1) of the Assistance to and Protection of Victims of Crime and Witnesses Act, No 04 of 2015.

Sayyidu Ali Abdul Saththar,
40/25, Kaleel Place,
Kalutara.

Petitioner

Court of Appeal Case No:
CA (Bail) 51/22

Vs.

Magistrete's Court of Kaluthara Case
No: **B/2836/22**

1. Hon. Attorney General,
Attorney General's Department,
Colombo 12.
2. The Officer in Charge,
Miscellaneous Branch,
Police Station,
Kaluthara South.

Respondent

3. Abdul Saththar Fowzul Ahamed,
40/25' Kaleel Place,
Klauthara

Accused Respondent

Before: Menaka Wijesundera J.

Neil Iddawala J.

Counsel: Ghazail Hussain with Thushara Warapitiya instructed by Shammass Ghouse
for the petitioner.

Indika Nelumini SC for the Respondent.

Argued on: 29.09.2022

Decided on: 05.10.2022

MENAKA WIJESUNDERA J.

The instant matter has been filed to obtain bail for **Abdul Satthar Fowzul Ahamed** under the Provisions of the **Assistance to and Protection of victims of Crime and Witnesses Act, No. 04 of 2015**.

The Counsel for the Accused – Respondent (hereinafter referred to as the Accused) stated that the complainant has lodged the instant complaint on 21/11/2021, but he had been arrested and produced before the Magistrate on 30/06/2022 which is **06 months after the complaint**. The substantive matter in the instant case has been that the Accused committed offences under Section 433 and 410 of the Penal Code on 25/01/2019. By the time the instant complaint had been made the evidence of the complainant in the substantive matter had been partly concluded. The instant complaint is with regard to an alleged threat of throwing Petrol. But the Counsel for the Accused submitted that the intention of the police had been to incarcerate the

Accused falsely and that it is well demonstrated by the fact that the Accused had been arrested for the instant matter after 06 months from the complaint.

The State Counsel appearing for the Respondents objected for bail being granted and stated that the police took six months to file charges because the accused had been absconding.

Having considered the submissions of both parties, this Court is mindful of the fact that the purpose of the instant act is to safeguard the rights of Victims of Witnesses but in the same act it is stated that matters filed under this act should be given precedence, which is to safeguard the rights of all parties.

In the instant matter Court observes that the alleged act of threat had taken place when the evidence of the victim in the substantive matter was nearing conclusion, and as such as it is by now obviously the evidence of the victim should be concluded and as such it is the opinion of this Court that the accused should be enlarged on bail, hence the Accused namely **Abdul Sather FowzulAhmed is enlarged** on the following conditions of bail.

01. A cash bail of Rs. 125,000/-
02. Two sureties to the value of 200,000/- each.
03. The accused to report to the relevant Police Station on every last Sunday of the month.
04. The accused is hereby severely warned not to interfere with the complainant or the family members. If it is reported the instant bail order would be cancelled.

The Registrar of this Court is directed to convey the instant order to the Registrar of the relevant Magistrate's Court. Hereby the instant order for bail is allowed.

Judge of the Court of Appeal.

I agree.

Neil Iddawala J.

Judge of the Court of Appeal.