

IN THE COURT OF 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.

The Officer in Charge

Miscellaneous Complaints

Police Station

Marawila.

Court of Appeal Case No:
CA BAIL 27 / 22

Magistrate's Marawila Case No:
B 516/22

Complainant

Vs.

Madampitiyage Camil Nishantha
(Presently in Negombo Prison)

Suspect

Kuluwage Premalatha

No 150/B/1

Kelimulla

Kudawewa

Petitioner

Vs.

1. The officer in Charge

Miscellaneous Complaints

Police Station

Marawila

2. Hon. Attorney General

Attorney General's
Department

Colombo 12.

Before: Menaka Wijesundera J.

Neil Iddawala J.

Counsel: Delan De Silva Instructed by Yohan Peiris for the petitioner.

SC Indika Nelummini for the state.

Argued on: 31.10.2022

Decided on: 09.11.2022

MENAKA WIJESUNDERA J.

The instant matter has been filed to obtain bail to the suspect namely **Madampitiyage Camil Nishantha** under provisions of the **Assistances to and Protection of Victims of Crime and Witness Act, No. 04 of 2015**.

The facts relating to the instant matter is that one **Kavindya Nilusha Lakshan** has made a complaint against the suspect for allegedly scolding in filth and threatening her to withdraw the complaint she had made against her son for sharing nude photographs of the complainant with some others. The said complaint had been made on 06.02.2020. Thereafter the suspect had threatened another relative of the complainant. Based on this complaint the police had reported facts to the Magistrate under the Provisions of the above mentioned Act and the suspects had been in remand since March 2022.

The main contention of the Counsel for the suspect is that the suspect is in remand without any legal action being taken against him.

The State Counsel appearing for the Respondents objected to the application on the basis that there are no exceptional circumstances cited by the Counsel for the suspect and further submitted that the investigations are concluded and that it will be considered by the Attorney General without delay.

But the Counsel for the suspect stated that there is no definite timeline cited by the authorities for the consideration of the facts against the suspect and that itself is an exceptional ground.

According to the law pertaining to the instant matter a suspect produced under the Provisions of the above Act can be enlarged on bail only upon exceptional grounds by the Court of Appeal.

But in the instant matter as stated by the State counsel there is no exceptional grounds cited by the Counsel for the suspect and the ground cited by the Counsel for the suspect we are unable to consider as exceptional because the timeline involved is not an inordinate or exceptional delay. As such this Court sees no reason to enlarge the suspect on bail. Hence the instant application for bail is refused.

Judge of the Court of Appeal.

I agree

Neil Iddawala J.

Judge of the Court of Appeal.