

IN THE COURT OF APPEAL OF THE DEMOCRATIC SOCIALIST

REPUBLIC OF SRI LANKA.

In the matter of an Application
for Bail in terms of Section 10 (1)
(a) of the Assistance to and
Protection of Victims of Crime
and Witnesses Act No. 4 of 2015.

Officer in Charge

Police Station

Court of Appeal Case No:

CA / BAL / 0061 / 21

Matale.

Complainant

Magistrate's Court of Matale

Case No: **B 860/2020**

Vs.

Dambarawe Gedara Sujeewa
Premasiri alias Indika.

No 1A, Parawatte, Kaludawala

Matale.

Suspect

AND NOW

Dissanayakke Mudiyansele
Biso Manika,

No 1A, Parawatte,

Kaludawala,

Matale.

Petitioner

Vs.

1. Officer in Charge

Police Station

Matale

Complainant – Respondent

2. Hon. Attorney General

Attorney General's Department

Colombo 12.

2nd Respondent

3. Dambarawe Gedara Sujeewa
Premasiri alias Indika.

No 1A, Parawatte,

Kaludawala Matale

Suspect Respondent

Before: Menaka Wijesundera J.

Neil Iddawala J.

Counsel: Mohan Weerakoon PC with S. Peiris and N. Alwis for Suspect –

Respondent.

R. Kuruwita SC for AG.

Argued on: 14.11.2022

Decided on: 29.11.2022

MENAKA WIJESUNDERA J.

The instant application has been filed to obtain bail to the suspect namely **Dambarawe Gedara Sujeewa Premasiri under the provisions of the Assistance to and Protection of Victims of Crime and Witnesses Act no 4 of 2015.**

The suspect in the instant matter has been indicted for a case of murder in Matale and the virtual complainant in the instant matter had made the complaint alleging that the suspect had threatened her. The said virtual complainant is the daughter of a witness in the murder case, and the incident had taken place while they were returning from Court.

The Counsel for the suspect stated that **the suspect had been in remand for the** instant matter for nearly two years and four months.

The state Counsel appearing for respondents objected to the application on the basis that he has one pending case and another previous conviction which had been suspended. But the state counsel failed to state as to when legal action will be considered against the suspect, she in fact **stated th**at the police have failed to submit the IB extracts **although several** reminders have been sent which indicates the lopsided attitude of the law enforcing authorities.

The law pertaining to the instant matter is that **when a suspect is produced under the provisions of the above act bail can be considered only upon exceptional circumstances by the Court of Appeal. The term exceptional has not been defined in the statute, but in many of our decided cases it has been held that exceptionality defers from case to**

case. The exceptionality pleaded by the Counsel in the instant matter is the long period of remand without any action being taken against or for the suspect by the respondents.

It is observed by this Court that the objective of the instant act is to safe guard the rights of the victims and the witnesses but at the same time it has been stated by the act that matters coming under this act must be given precedence over other matters to ensure speedy disposal of the matters. But in the instant matter we do not see any such thing being considered but instead what we see is that the matter is being dragged on for no good reason.

As such we consider this case to be a fit matter to be considered for the granting of bail.

As such the instant application for bail is allowed and we direct the relevant Magistrate to enlarge the above named suspect on suitable conditions of bail without delay upon the receipt of this order.

We direct the Registrar of this Court to convey the instant order to the relevant Magistrates Court.

Judge of the Court of Appeal.

I agree.

Neil Iddawala J.

Judge of the Court of Appeal.