

IN THE COURT OF APPEAL OF THE DEMOCRATIC SOCIALIST

REPUBLIC OF SRI LANKA.

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

Rajapaksha Arachchilage Ganga
Semini Rajapaksha.

159/3/1, Rajasinghe Mawatha,
Ihala Imbulgoda.

Court of Appeal Case No:

CA / (BAL) 17 / 2021

The Magistrate's Court of Kegalle Case

No: **B 7907 /2020**

Petitioner

Vs.

1.The Officer in Charge,

Police Station

Pindeniya.

2.The Hon. Attorney General,

Attorney General's Department,

Colombo 12.

Respondents

Rajapaksha Arachchilage Jeewantha
Rajapaksha,

No. 01/524,Maththamagoda,

Kotiyakubura.

(Presently at Remand Prison)

Suspect

Before: Menaka Wijesundera J.

Neil Iddawala J.

Counsel: Darshana Kuruppu with Chinthaka Udadeniya for the Petitioner.

Ridma Kuruwita SC for the State.

Argued on: 14.02.2022

Decided on: 08.03.2022

MENAKA WIJESUNDERA J.

The instant application has been filed to obtain bail for the suspect namely Rjapakse Arachilage Jeewananda (hereinafter referred to as the suspect) 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 in remand custody for an alleged incident of threatening a person with a firearm when he is supposed to have threatened the virtual complainant in the instant matter over the phone on 24.01.2020 and the calls had continued for several months and finally in July the virtual complainant had recorded the calls and had handed over the recordings to the police and the police had reported facts to the Magistrate under the above mentioned act and the suspect had been remanded.

In the instant matter the respondents objected for the suspect being enlarged on bail for the reasons that he has many pending cases of attempted murder, offences connected to firearms and several others of criminal nature.

The counsel for the suspect urged that the suspect had been in remand for over a year and due to the Covid situation and in consideration of his civil status that bail be considered.

In the act under which the suspect had been produced bail can be granted only on exceptional circumstances by the Court Of Appeal, but the act has not defined the term exceptional and such it has been held over by our Courts that the term exceptional would vary from case to case by the individual facts of each case.

As such in the instant matter the matters urged by the counsel for the suspect cannot be considered as exceptional especially in view of the pending and the previous cases against the suspect.

The respondents have stated that the indictment against the suspect cannot be finalized in view of the fact that the Government Analyst report is pending and the phone records of the suspect is vital to the case.

Hence as the objective of the act is to “set out, uphold and enforce the rights and entitlements of the victims of crime and witnesses and to provide for a mechanism to promote protect, enforce and exercise such rights and entitlements...”, hence in view of the long criminal record of the suspect with so many pending and already convicted cases, this Court sees no exceptional circumstance to enlarge the suspect on bail.

As such the instant application for bail is dismissed.

Judge of the Court of Appeal.

I agree.

Neil Iddawala J.

Judge of the Court of Appeal.