

IN THE COURT OF APPEAL OF THE DEMOCRATIC SOCIALIST

REPUBLIC OF SRI LANKA.

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

Officer – in – Charge,

The Police Station,

Court of Appeal Case No:

Pallekelle.

CA / BAIL / 41 / 2021

Complainant

The Magistrate's Court of Teldeniya

Vs.

Case No: **B / 1060 / 21**

Methasinhe Arachchige Dushmantha
Sujith Kumara Fernando

(Presently in Pallekelle Remand Prison)

Suspect

AND NOW BETWEEN

Warnasuriya Mudiyanseelage Dilshani
Tharundika Warnasuriya,

No. 03, Red Cross Road,

Balagolla, Kengalla.

Petitioner

Vs.

1. Officer – in – Charge

The Police Station

Pallekelle.

Complainant – Respondent

2. The Hon. Attorney General,

Attorney General’s Department,

Colombo 12.

Respondent

3. Methasinhe Arachchige Dushmantha
Sujith Kumara Fernando.

(Presently in Pallekelle Remand Prison)

Suspect – Respondent

Before: Menaka Wijesundera J.

Neil Iddawala J.

Counsel: W.D Weeraratne with Chandika Senarath for the petitioner.

Erandi Dissanayaka, SC for the State.

Argued on: 23.03.2022

Decided on: 25.05.2022

MENAKA WIJESUNDERA J.

The instant application has been filed to obtain bail for the suspect namely Methasinghe Arachchige Dushmantha Sujith Kumara Fernando.

The suspect in this matter has been arrested on 01.07.2021 for being a member of an unlawful assembly and for causing grievous hurt. He had been produced in the Magistrate's Court of Theldeniya and had been enlarged on bail.

The complainant in the instant matter alleges that, he was threatened by the suspect over the phone. The said complaint has been substantiated by the statements in the documents marked as R1 and R2.

The petitioner claims that the health conditions of the suspect, his wife and father to be considered as exceptional to enlarge the suspect on bail.

According to the provisions of the Act under which the suspect has been produced threatening the victims of the substantive matter, bail can be considered only upon exceptional grounds by the Court of Appeal.

In the instant matter, exceptionality pleaded by the petitioner is the health conditions of the suspect, his wife and the father. Petitioner has submitted medical reports to substantiate the position. The counsel for the respondent aver that medical reports filed are outdated and do not indicate a situation where the life of the suspect is endangered by his incarceration.

The objective of the **Assistance To and Protection of the Victims of Crime and Witnesses Act No.4 of 2015** is to uphold and enforce the rights of victims of crime and witnesses. In the instant case the suspect has violated the very objective of the Act. The exceptional circumstance he has pleaded to obtain bail is based on

outdated documents. Therefore, this court sees no exceptional reason 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