

**IN THE COURT OF APPEAL OF THE DEMOCRATIC SOCIALIST  
REPUBLIC OF SRI LANKA**

*In the matter of an application for mandates in  
the nature of Writ of Certiorari and Prohibition  
under and in terms of Article 140 read with  
Article 126(3) of the Constitution of the  
Democratic Socialist Republic of Sri Lanka.*

**CA/WRIT/200/2022**

Johnston Xaviour Fernando  
527, Rosewood Estate, Rathkarauwa,  
Maspotha,  
Kurunegala.

**Petitioner**

Vs.

1. C. D. Wickramaratne  
Inspector General of Police,  
Sri Lanka Police Headquarters,  
Colombo 01.
2. Prasad Ranasinghe  
Deputy Inspector General,  
Criminal Investigation Department,  
Colombo 01.
3. U. B. Galwala  
Officer In charge,  
Special Investigations Division (III),  
Criminal Investigation Department,  
Colombo 01.
4. Attorney General  
Attorney General's Department,  
Colombo 12.

**Respondents**

**Before** : Sobhitha Rajakaruna J.

Dhammika Ganepola J.

**Counsel** : Manohara De Silva PC for the Petitioner.

Vikum De Abrew, ASG PC with Lakmini Giriagama DSG for the 4<sup>th</sup>  
Respondent.

**Decided on** : 09.06.2022

### **ORDER**

Heard learned President's Counsel in support of this application and the learned Additional Solicitor General opposing this application.

The learned President's Counsel for the Petitioner submits that the wordings of the Petitioner enumerated in 'P4b' were only to persuade the former Prime Minister not to resign from his post. He submits that those words in 'P4b' do not attract an offence. Further, the learned President's Counsel submits that in order to consider the Petitioner as a suspect there must be a commission of an offence. However, the learned Additional Solicitor General submits that the statement made by the Petitioner which is reflected in 'P4b' amounts to a reasonable suspicion of committing an offence. Further the learned ASG informs Court that the learned Magistrate of Magistrate's Court of Fort in case No. B 22046/22 has issued a warrant on 08.06.2022 against the Petitioner and accordingly, the instant application of the Petitioner is futile.

The learned President's Counsel Renzie Arsecularatne intimates that he has filed a proxy on behalf of an aggrieved party and seeks permission to make submissions and to file intervention papers. The Court heard submissions of the learned President's Counsel Renzie Arsecularatne and the President's Counsel Sarath Jayamanne only on the issues pertaining to questions of law. Both learned President's Counsel indicate that they intent to file intervention papers on behalf of the aggrieved parties.

The order on issuance of notice and the interim relief is reserved until 21.06.2022.

The Petitioner in this application is seeking for an interim relief by restraining the 1<sup>st</sup> to 3<sup>rd</sup> Respondents from arresting the Petitioner in relation to the speech the Petitioner made on 09.05.2022, reflected in 'P14' and filed of records in case bearing No. B 22046/22 in the

Magistrate's Court of Fort. In view of arriving at a conclusion on the interim relief prayed for by the Petitioner, the Court needs to take cognizance on the fact that the learned Magistrate has already issued a warrant against the Petitioner. In the circumstances, this Court is of the view that interim orders should be made to be operative only until this Court makes an order on issuance of notice and interim relief in this application, based on the special circumstances of this case.

The Respondents are directed not to execute the arrest warrant until this Court makes an order on issuance of notice.

However, the Court is of the considered view that the Petitioner should be directed to surrender before the learned Magistrate of the Fort Magistrate's Court before 8.00 pm today. If the Petitioner fails to surrender as prescribed above, this order is not an impediment for the Respondents to execute the arrest warrant already issued by the learned Magistrate of the Magistrate's Court.

Upon the Petitioner surrendering before the learned Magistrate during the time prescribed above, the learned Magistrate should not make any further orders on the arrest of the Petitioner until this Court makes an order on the issuance of notice in this application. However, the learned Magistrate should make all necessary orders in order to assure the presence of the Petitioner before the Magistrate's Court at any time, any date or on several dates and to participate at the investigations.

The above orders should not be construed as that this Court has raised any prima facie doubt on the arrest warrant issued by the Magistrate as this Court has not made an order on issuance of notice so far. Further, this order is not an impediment for the learned Magistrate to make any orders in view of the investigations and further steps in respect of the relevant B report filed in case No. B 22046/22.

The parties who are seeking to intervene can file intervention papers on or before 16.06.2022 with notice to all parties and however, the decision on allowing such parties to support such applications will be made based on the decision of this Court on issuance of notice.

The Registrar is directed to communicate forthwith this order to the Registrar of the Magistrate's Court of Fort by facsimile and over the phone.