

**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.

**Court Of Appeal Case No:**

**CA/BAL/ 0069/2021**

**Batticaloa Magistrate Court**

**Case No : 32071/PC/19**

The Officer in Charge

Police Station

Eravur.

**Complainant**

**Vs.**

Subramaniam Shakthikumar

V. C Library Road

Vanthurumoolai

Batticaloa.

**Suspect**

**AND BETWEEN**

Subramaniam Shakthikumar

V. C Library Road,

Vantharumoolai

Batticaloa

**Suspect-Petitioner**

**Vs.**

1. The Officer in Charge,  
Police Station,  
Eravur

**Complainant – Respondent**

2. The Hon Attorney General,  
Attorney General's Department,  
Colombo 12.

**Respondent**

**Before** : - **Hon. Justice Menaka Wijesundera**

**Hon. Justice Neil Iddawala**

**Counsel** : - Shihar Hassan with K.P.M. Divyangana for the Suspect – Petitioner.

Indika Nelummini, SC for the State.

**Decided on** : - 15.06.2022

**Hon. Justice Menaka Wijesundera**

The instant application has been filed to obtain bail for Subramaniam Shakthikumar, the Suspect Petitioner, under the provisions of the Assistance to and Protection of Victims of Crime and Witnesses, Act No. 04 of 2015.

According to the submissions of the counsel for the Suspect, the substantive matter which had been under Section 314 of the Penal Code had taken place on 11/09/2019.

The substantive matter had been referred to the Mediation Board; but the Mediation Board had reported back to Court that a settlement could not be reached. According to the submissions of the Counsel for the Suspect, the two parties are neighbors and there had been several ongoing disputes between the two parties. But on 18/10/2020, the virtual complainant in the instant matter, has made a statement to the police stating that the Suspect abused and threatened the complainant. The police have taken steps to report facts to the Magistrate under the provisions of the instant Act and thereafter, the suspect had been in remand since October 2020.

The Counsel for the Petitioner invites Court to consider the remand period of the Suspect.

The Counsel appearing for the Respondent is objecting to the instant application and states that the two parties are neighbors and that there is an ongoing quarrel between the two parties.

Having considered the submissions of both parties, we note that bail in the instant matter can be granted only upon exceptional circumstances by the Court of Appeal under the provisions of the instant Act. The exceptionality we see in this matter is that the Counsel appearing for the Respondents is unable to state a date as to when action can be taken if there is material against the Suspect. We note at this juncture that the instant Act has been enacted to safe guard the rights of victims and witnesses; but at the same time the Act has ensured that proceedings and due administration of justice against the Suspects under this Act, has to be done without any delay. Therefore, considering the uncertainty in filing action against the Suspect, this Court thinks it is a fit case to grant bail in the instant matter. As such the Suspect, namely, Subramaniam Shakthikumar is enlarged on the following conditions of bail.

1. Rs. 25,000 cash bail.
2. Two sureties to the value of 50,000 each.
3. The Suspect to report at the Eravur Police Station on every last Sunday of the month before 2.00 pm.
4. The Suspect is severely warned not to interfere with the complainant nor the family members.

The Registrar of this Court is directed to send the above order to the relevant Magistrate's Court.

The instant application for bail is allowed.

**JUDGE OF THE COURT OF APPEAL**

**Hon. Justice Neil Iddawala**

I agree.

**JUDGE OF THE COURT OF APPEAL**

ANV/-