

**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) of the Assistance to and Protection of  
Victims of Crime and Witnesses Act No. 04 of 2015

**CA Appeal Case No:**

**BAL-0010-22**

**MC Matara Case No:**

**BR2663/21**

- 1) MendisJayasinghe Ranga Udesh Kumara  
Mahagedara Watte, Wawwa,  
Dewinuwara.

**Presently at**

Matara Prison,  
Matara

**2<sup>nd</sup> Suspect-Petitioner**

**-Vs-**

The Officer in Charge,  
Police Station,  
Gandara.

**Complainant-Respondent**

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

**Respondent**

Before : Hon. Justice Menaka Wijesundara  
Hon. Justice Neil Iddawala

Counsel : R.S. Jayawardena instructed by W. Bogahawatte for the Suspect-Petitioner  
Ridma Kuruwita, SC for the Respondent

Decided on : 26.07.2022

**Hon. Justice Menaka Wijesundara**

The instant Application has been filed to obtain bail for Mendis Jayasinghe Ranga Udeshe Kumara under the Provisions of Assistance to and Protection of Victims of Crime and Witnesses Act No. 04 of 2015.

In the instant matter there had been a complaint against the 2<sup>nd</sup> Suspect-Petitioner by the complainant who alleges that the 2<sup>nd</sup> Suspect-Petitioner along with some others had come to their house on 24/09/2021 and has threatened she and her family, because her husband had given evidence in a murder case. By this time the evidence of her husband had been concluded.

The complainant does not make specific reference to the 2<sup>nd</sup> Suspect-Petitioner. The 2<sup>nd</sup> Suspect-Petitioner had been in remand since then.

The learned State Counsel appearing for the Petitioner is objecting to this application on the basis that the complainant's husband whose evidence has been concluded is the cause for the instant threat and that there is a threat to the safety of the complainant's family. She further claims that Police extracts have not been submitted, hence filing of proceedings in Court against the 2<sup>nd</sup> Suspect-Petitioner is in definite.

According to the Provisions of the instant Act under which the 2<sup>nd</sup> Suspect-Petitioner has been produced and remanded a suspect can be enlarged on bail only upon exceptional circumstances by the Court of Appeal. The term exceptional has not been defined in the Act, but in many of our decided cases, it has been stated that the term exceptional varies from case to case depending on the facts of each case.

In the instant matter the exceptional circumstances are,

01. The evidence in the substantive matter has been concluded.

02. A definite date of filing proceedings against the 2<sup>nd</sup> Suspect-Petitioner is not known.

This Court notes that in the above Act, the main objective has been to safe guard the rights of Victims and Witnesses, but it has also stated in the same Act that proceedings against Suspect under the Provisions of this Act should not be delayed and that it should be given precedence over other cases. Therefore, we see it as a measure safe guarding the rights of the Suspects as well. Therefore, in the instant matter filing of proceedings against the Suspect is in definite. As such we see this case as a matter which should be considered in favour of the Suspect-Petitioner. Hence the instant application for bail is allowed and the 2<sup>nd</sup> Suspect-Petitioner namely, Mendis Jayasinghe Ranga Udesh Kumara is enlarged on bail on the following conditions:

01. A Cash bail of Rupees 50,000/=

02. Two sureties to the value of 100,000/= each.

03. The Suspect to report to every last Sunday of the Month to the relevant Police Station.

04. The Suspect is severely warned not to interfere with the complainant's family and if he does and if it is reported the above bail conditions would be cancelled.

The Registrar of this Court is hereby ordered to convey the instant order to the relevant Magistrate's Court.

The instant order for bail is allowed.

Learned Counsel for the Suspect-Petitioner makes an application to have the order conveyed by way of Fax and that they will bear the cost.

Application is allowed.

JUDGE OF THE COURT OF APPEAL

**Hon. Justice Neil Iddawala**

I agree.

JUDGE OF THE COURT OF APPEAL

TTS/-