

IN THE COURT OF APPEAL OF THE DEMOCRATIC SOCIALIST

REPUBLIC OF SRI LANKA.

In the matter of an application for
bail under Section 10 (1) (a) of the
Assistance to and Protection of
Victims of Crime and Witnesses Act
No: 04 of 2015.

The Officer in Charge

Police Station

Welipanna

Court of Appeal Case No:
CA/BAL/034/2022

Magistrate's Court of Mathugama
Case No: **BR 123/2021**

Complainant

Vs.

Wittahachchi Koralage Sadamal
Nilantha

No: 144, Bola Kella,

Navajanapadaya,

Meegama.

Suspect

AND NOW

Anagipura Thilakarathna

No: 135/C/1

Millagahawatta,

Idigasthuduwawatta.

Petitioner

Vs.

1. The Officer in Charge

Police Station

Welipanna

Complainant Respondent

2. The Hon Attorney General

Attorney General's Department

Colombo 12.

Respondent

Wittahachchi Koralage Sandamal
Nilantha

No: 144 Bola Kella

New Colony

Meegama

Suspect – Respondent

Before: Menaka Wijesundera J.

Neil Iddawala J.

Council: Upali Ratnayake for the Petitioner.

Ridma Kuruwita, SC for the Respondent.

Argued on: 15.12.2022

Decided on: 01.02.2023

MENAKA WIJESUNDERA J.

The instant application has been filed to obtain bail to the Suspect-Petitioner namely, **Withanachchi Koralage Sandamal Nilantha** under the Provisions of the **Assistance to and Protection of Victims of Crime and Witnesses Act**.

The suspect had been initially arrested and produced for raping a girl of 12 years by the name of **Piyumi Samanali** on **31.01.2021**.

On being released on bail the suspect is supposed to have gone to their house and had threatened the victim and the parents. Thereafter, the police had produced the suspect under the instant Act under BR 123/2021. The Magistrate had remanded the suspect. The suspect had been in remand since then.

The Counsel for the suspect did not submit any exceptional ground.

But the Counsel appearing for the Respondent stated that the indictment with regard to the instant matter is ready and is about to be dispatched to the relevant High Court.

The bail pertaining to the instant matter is that a suspect or an accused produced under the instant Act, has to submit exceptional ground to be enlarged on bail by the Court of Appeal. The term exceptional has not been defined in the Act. But the literal meaning of the term is that, it is something which is out of the ordinary. The cases so far decided it has been held that what is out of the ordinary depends on the facts of each case. Therefore, in

the instant matter we see no such submissions being made by the Counsel for the suspect. 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