

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) (a) of the
Assistance to and Protection of
Victims of Crime and Witnesses
Act No: 04 of 2015 read along
with Bail Act No 30 of 1997.

Court of Appeal Case No:

CA Bail 55 /2022

Magistrete's Court of

Tiisamaharamaya Case No:

B 74597

The Officer in Charge

Police Station

Lunugamwehera.

Complainant

Vs.

Lakshan Gunasekara

No.10, Kuda Gammana 05,

South Bank

Lunugamwehera.

**(Presently kept in Remand
Prison at Angunakolapelessa.)**

Suspect

AND NOW

Thondilage Achintha Srimal

No.270/17,

Rajapaksha Mawatha,
Pannagamuwa,
Weerawila.

Petitioner

Vs.

2. The Officer in Charge
Police Station
Lunugamwehera.

Complainant – Respondent

2. The. Hon Attorney General
Attorney Generals Department
Colombo 12.

Respondents

Lakshan Gunasekara
No.10, Kuda Gammana 05
South Bank
Lunugammwehera.

**(Presently kept in Remand
Prison at Angunakolapelessa.)**

Suspect

Before: Menaka Wijesundera j.

Neil Iddawala J.

Counsel: Hafeel Faris for the Petitioner.

Ridma Kuruwita, SC for the Respondents.

Argued on: 12.01.2023

Decided on: 01.02.2023

MENAKA WIJESUNDERA J.

The instant application has been filed to obtain bail for the suspect by the name of Lakshan Gunasekera (hereinafter referred to as the suspect), under the provisions of the **Assistance to and Protection of Victims of Crime and Witnesses Act**.

The suspect had been arrested on **14.2.2022** for the instant offence while being on bail for a complaint of assault on **22.10.2021** for which facts had been reported and the case of assault had been referred to the Mediation Board.

The suspect has several cases pending and some previous convictions of similar nature which the suspect has not denied.

The State Counsel appearing for the Respondents objected to the instant application on the basis of the number of cases pending before the suspect and the previous convictions.

At the time this matter was taken up for argument the Counsel appearing for the petitioner was not in Court but a junior counsel appeared and was unable to assist Court suitably. Hence in the interest of justice Court directed the suspect to file written submissions.

The main contention of the suspect is that he has been in remand since his arrest without his matter reaching a conclusion.

The purpose of the instant act is to safeguard the rights of victims and witnesses, but the act also emphasizes the fact that matters under this act should be speedily concluded. But in the instant act the investigations are not yet over and the suspect is in remand for nearly a period of 11 months.

The law pertaining to bail under the instant act is that a suspect or an accused produced or charged under this act can be granted bail only upon exceptional circumstances by the Court of Appeal and the term exceptional has not been defined in the statute. But in many of our decided cases it has been held that exceptional circumstances differ from case to case.

In the instant matter this Court observes that the suspect has been granted bail for the complaint received on **22.10.2021** and soon afterwards he is being produced for an offence under this act for which bail can be granted only by the Court of Appeal.

Hence although the respondents have stated that the suspect had been a kind of nuisance to the society in the area if that is so the investigating authorities should conclude the investigations without delay, hence considering the long delay in concluding the investigations this Court is of the view that it is only but fair to enlarge the above mentioned suspect on bail.

As such the instant application for bail is allowed and we direct the learned Magistrate to enlarge suspect above named on suitable conditions of bail.

Judge of the Court of Appeal.

I agree.

Neil Iddawala J.

Judge of the Court of Appeal.