

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. 4 of 2015.

The Officer in Charge

Police Station

Poonawa.

Complainant

Court of Appeal Case No:
CA / BAIL 61/2022

Vs.

Magistrate's Court of
Medawachchiya Case No:
B / 54/ 2022

1. Segu Ismile Mohamad Manzoor

(Alias Mohamad Maizoor)

No.160, Katuwela

Medawachchiya.

2. Faruk Nasooda Bhanu

Katuwela, Medawachchiya.

3. Kapugamaralage Inoka Kumari
Nawarathne

No.41/5, Temple Road

Katuwela, Medawachchiya.

4. Segu Ismile Mohamad Husen

Katuwela, Medawachchiya.

(Presently all at Remand Prison
Anuradhapura)

Suspect

AND NOW

Kadar Husen Pawzool Haniya

No.160,Katuwela

Medawachchiya.

Petitioner

Vs.

1. The Officer in Charge

Police Station

Poonawa.

Complainant Respondent

2. The Hon. Attorney General

Attorney General's Department

Colombo 12.

Respondent

3. Segu Ismile Mohamad Maizoor

No.160, Katuwela

Medawachchiya.

1st Suspect Respondent

Before: Menaka Wijesundera J.

Neil Iddawala J.

Counsel: V. Dharmasena Vidyaratne for the Petitioner.

Ridma Kuruwita, SC for the Respondents.

Argued on: 18.01.2023

Decided on: 21.02.2023

MENAKA WIJESUNDERA J.

The suspect petitioner in the instant matter has been produced before the Magistrate for offences of rape and abduction of a 15 year old girl.

The petitioner had been produced before the Magistrate for an identification parade on 19.4.2022 and the victim and parents had come for the parade. The parents of the victim and victim herself allege that they were threatened by the petitioner and the accused in the main case asking them to withdraw the case.

The above complaint had been lodged against the suspects and the police had produced them before the Magistrate under the provisions of Assistance to and Protection of Victims and Witnesses act as such they had been remanded by the Magistrate.

The Counsel for the suspect stated that although the suspect was arrested and produced under the instant act meaningful action is yet to be taken against the suspect by the authorities.

The law pertaining to the instant matter is that if a suspect is to be enlarged on bail under this act, he has to show exceptional circumstances to be considered by the Court of Appeal.

The term exceptional has not been defined in the act but in the cases so far decided, it has been held that exceptionality of circumstances have to be determined case by case.

In the instant matter we observe that the complainant had been threatened while trying to participate in a judicial proceeding, hence it is a blatant violation of the fundamental purposes of the act.

As such this Court is of the opinion that considering the tender age of the victim this Court is of the opinion that the instant application should not be considered at this juncture.

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.