

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) (a)
of the Assistance to and
Protection of Victims of Crime and
Witnesses Act No: 04 of 2015.

Court of Appeal Case No:
CA / BAL/ 019/ 2022

Magistrate Court of Negombo

Case No: **M 31597**

The Officer in Charge

Police Station

Negombo.

Complainant

Vs.

Panambarage Shamith Jehan
Fernando

No: 420, Kurana,

Katunayake.

Suspect

AND NOW BETWEEN

Panambarage Suranjan Alexander
Fernando

No 770, Colombo Road

Kurana

Negombo

Petitioner

Vs.

1. The Officer in Charge

Police Station

Negombo.

2. Hon. Attorney General

Attorney General Department

Colombo 12.

Respondents

Panambarage Shamith Jehan
Fernando

No: 420, Kurana,

Katunayake.

**(Presently at the Remand Prison
of Negombo)**

Before: Menaka Wijesundera J.

Neil Iddawala J.

Counsel: Dimuthu Bandara with Subash Fernando for the petitioner.

Ridma Kuruwita for the Respondent.

Argued on: 24.11.2022

Decided on: 11.01.2023

MENAKA WIJESUNDERA J.

The instant application has been filed to obtain bail to the suspect namely **Panambarage Shamith Jehan Fernando** under the provisions of the **Assistance to and Protection of Victims of Crime and Witnesses act.**

A complaint had been lodged against the suspect on 1st March 2021 under section 314,316 and 380 of the Penal Code.

Subsequently another complaint had been filed on 15th March 2021 for threatening the husband of the victim in the above-mentioned matter. Thereafter the police had filed a B report under the instant act as a result of which the suspect had been remanded and has been in remand ever since.

The main contention of the Counsel for the suspect is that the suspect and the victim in the substantive matter had been having an extra marital relationship and that it is a series of events based on the three people involved in a triangle of a personal relationship and nothing also.

The State Counsel appearing for the respondents objected to the application.

In considering the law pertaining to the instant matter bail can be considered under the instant act only upon exceptional circumstances by the Court of Appeal and the act has not defined the term exceptional. But in many of our decided cases it has been held that the exceptionality depends on the facts and circumstances of each case.

Anyhow it has been urged on behalf of the suspect that he has been in remand for the instant matter for more than a year without proper legal action being taken against him.

Hence as the instant act has very clearly stated that priority should be given for matters under this act over the other matters, this Court is of the view that it is only but fair that the suspect in the instant matter should be enlarged on bail.

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

Judge of the Court of Appeal.

I agree.

Neil Iddawala j.

Judge of the Court of Appeal.