

IN THE COURT OF APPEAL OF THE DEMOCRATIC SOCIALIST

REPUBLIC OF SRI LANKA.

In the matter of an application for
Bail under terms of section 10 (1) of
the Assistance to and Protection of
Victims of Crime and Witnesses Act,
No 04 of 2015.

Officer in Charge

Police Station

Court of Appeal Case No:

Giradurukotte.

CA BAIL 30 / 22

Complainant

Magistrate Court of Mahiyanganaya

Vs.

Case No: **B 45397/22**

Wisnadewayalage Rathnapala.

Suspect

AND NOW BETWEEN

Wisnadewayalage Nirosh Malkanthi

49/A, Kolona Yaya,

Bathala Yaya,

Mahiyanganaya

Petitioner

On behalf of

Wisnadewayalage Rathnapala

(Presently Languishing in Remand)

Vs.

1. Officer in Charge

Police Station

Giradurukotte.

Complainant – Respondent

2. Hon. Attorney General,

Attorney General Department

Colombo 12.

Respondent

Before: Menaka wijesundera J.

Neil Iddawala J.

Counsel: Tenny Fernando for the Petitioner.

Indika Nelumini S.C. for Respondents.

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 **W Ratnapala** 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 25.4.2021 for attempted murder and had been bailed out by the Magistrate on 5.5.2021 and thereafter he had threatened his wife asking her not to give evidence in the substantive case.

Subsequently 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 State Counsel appearing for the respondents objected to the application based on the threats levelled at the victim and sated that the non-summery in the substantive matter had commenced.

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.

In the instant case the exceptionality pleaded is that although eight months have passed since the incarceration of the suspect the matter pertaining to the suspect has not been concluded.

Hence as the instant act has very clearly stated that priority should be given for matters under this act over other matters, in the instant matter it had not been so as such 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.