

**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 Bail Act read along with section 10 (1) (a) of the Assistance to and protection of Victims of Crime and Witnesses Act No. 4 of 2015.

Court of Appeal Case No:  
**CA / BAIL / 32/22**

Magistrate's Court of Galle Case  
No: **B 96862 /18**

Ramasamy Yohan Jayantha  
No 243/ B Wewagodawatte,  
Thalgampala,  
Galle.

**Suspect**

**AND NOW BETWEEN**

Ramasamy Yohan Jayantha  
No 243/ B Wewagodawatte,  
Thalgampala,  
Galle.

**Suspect – Petitioner**

Vs.

1. Officer in Charge

Police Station

Akmeemana.

2. Hon. Attorney General  
Attorney General's Department  
Colombo 12.

**Respondent**

Before: Menaka Wijesundera J.

Neil Iddawala J.

Counsel: Selvaraja Dushyanthan for the Suspect – Petitioner.

Panchali Witharana SC for the State.

Argued on: 05.12.2022

Decided on: 18.01.2023

**MENAKA WIJESUNDERA J.**

The instant application has been filed to obtain bail to the suspect namely **Ramasamy Yohan Jayantha** under the provisions of the **Assistance to and Protection of Victims of Crime and Witnesses act.**

A girl by the name **of Rashmi Lakshika** had lodged a complaint against the suspect for sexually abusing her on 1.9.2018. The suspect has been produced before the Magistrate and upon considering the material in the B report the Magistrate has granted bail on 2.10.2018. Thereafter the brother of the suspect is alleged to have threatened the victim's mother and for the said complaint the Magistrate has cancelled the bail of the suspect on 20.10.2022

The Counsel appearing for the respondents vehemently objected to the instant application and stated that the victim in the substantive matter has been only 7 years of age at the time of the alleged incident and further more invited Court to consider the brutal manner in which the victim's mother had been threatened.

But we are unable to consider the facts of the case at this juncture.

The law pertaining to the instant matter is that a suspect produced under the instant act can be enlarged on bail only upon exceptional circumstance by the Court of Appeal.

The term exceptional has not been defined in the statute but in the recently decided cases the exceptional circumstances has been defined to be varying from case to case.

In the instant matter the exceptionality urged is the fact that the indictment has not been filed in the instant matter.

But the Counsel for the respondents stated that the indictment is being prepared.

But in view of the submissions of both parties the filling of the indictment is not yet known hence the question arises whether it is a violation of the personal liberty of the suspect to be kept in remand without due administration of justice taking place.

But in view of the nature in which the principal offence has been committed and the subsequent conduct of the brother of the suspect makes it only but fair to refuse the instant application for bail.

As such the instant application for bail is refused.

**Judge of the Court of Appeal**

**I agree.**

**Neil Iddawala J.**

**Judge of the Court of Appeal**