

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)
of Assistance to and Protection
of Victims of Crime and
Witnesses Act, No. 04 of 2015.

Court of Appeal Case No:

CA/BAIL/ 39/22

Magistrate's Court of Gampaha

Case No: **B 921/22**

Officer – in – Charge

Police Station

Malwathuhiripitiya.

Complainant

Vs.

Sirimanna Arachchige Hasitha
Hansaka

Suspect

AND NOW BETWEEN

Sirimanna Archchige Hasitha
Hansaka

Wendesiwatta,

Pasgammanna

(Presently Remanded at Mahara
Prison)

Suspect – Petitioner

Vs.

1. Officer in Charge

Police Station

Malwathuhipitiya.

2. Hon. The Attorney General

Attorney General's Department

Colombo 12.

Respondent

Before: Menaka Wijesundera J.

Neil Iddawala J.

Counsel: Ranil Samarasooriya with Madhava De Alwis for the Accused –

Petitioner.

Ridma Kuruwita, SC for the Respondents.

Argued on: 19.11.2022

Decided on: 31.01.2023

MENAKA WIJESUNDERA J.

The instant application has been filed to obtain bail to the suspect namely **Sirimanne Arachchige Hasitha Hansaka** under the provisions of the **Assistance to and Protection of Victims of Crime and Witnesses act.**

A girl by the name of **Punsika Mayaumi** had lodged a complaint against the suspect for allegedly kidnapping her and sexually abusing her. The suspect has been produced before the Magistrate and upon considering the material in the B report the Magistrate has directed the police to

investigate under the above act because the suspect is supposed to have videotaped the girl engaging in sexual activities with him and he had threatened the victim that he will make the video footages go public if she divulges their sexual activities.

Upon investigating the above the police had produced the suspect under the above-mentioned act and thereafter the Magistrate had remanded him in May 2022 and the suspect had been in remand since then.

The Counsel appearing for the respondents vehemently objected the instant application and the Counsel for the suspect pleaded and urged this Court to consider the age of the suspect as an exceptional circumstance.

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 tender age of the suspect and consequences of a youth being in remand to be considered.

But in view of the submissions of both parties the conduct of the suspect subsequent to the commission of the offence is a clear violation of the objectives of the act. But the conclusion of the investigations is not yet known hence the question arises whether it is a violation of the personal

liberty of the suspect by being kept in remand without being aware of any finality to the proceedings against him.

But in view of the nature in which the principal offence has been committed and the subsequent conduct 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.