

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
read along with Bail Act No. 30 of
1997.

Court of Appeal Case No:
CA /BAIL / 24 / 2022

Magistrates Court of
Pollonnaruwa Case No:
B 1247/20

The Officer in Charge

Police Station

Aralaganwila

Complainant

Vs.

Victor Susantha Gamini Alias.
'Kochchi Gamini'

No.26

Yaya 04

Weheragodella

Aralaganwila.

Suspect

AND NOW BETWEEN

Victor Susantha Gamini Alias.
'Kochchi Gamini'

No.26

Yaya 04

Weheragodella

Aralaganwila.

Suspect – Petitioner

Vs.

1. The Officer in Charge

Police Station

Aralaganwila.

2. Hon. Attorney General

Attorney Generals Department

Colombo 12.

Respondents

Before: Menaka Wijesundera J.

Neil Iddawala J.

Counsel: Migara Doss with Rasika Wellupili for the Petitioner.

Indika Nelummini, SC for the State.

Argued on: 13.12.2022

Decided on: 25.01.2023

MENAKA WIJESUNDERA J.

The instant application for bail has been filed to obtain bail for the suspect under the provisions of the **Assistance to and protection of Victims of Crime and Witness act.**

The main contention of the Counsel for the petitioner is that the mother of the suspect has complained against the suspect for assaulting her over a family dispute and thereafter he had been arrested and produced under the instant act in 2019 and he has been in remand ever since'

The Counsel appearing for the Respondents stated that the suspect is a registered criminal and he has several pending cases of similar nature and the seventy year old mother had been beaten by the suspect many times before and as such objected for bail being granted, to the suspect.

The law pertaining to the instant act is that if a suspect or an accused is produced under this act the said suspect or accused can be enlarged on bail only upon exceptional circumstances.

The law pertaining to the instant matter is that an accused or a suspect produced under this act, can obtain bail only upon exceptional circumstances from the Court of Appeal. The term exceptional has not been defined in the Statute. But the literal meaning of the term is that something which is out of the ordinary, but as the Statute had not defined what is out of the ordinary, the cases so far decided have concluded that what is out of the ordinary is something which depends on the facts of each case.

In the instant matter the exceptionality urged is the long period of remand of the suspect without any finality being reached in the case against him

But in view of the conduct of the suspect it is the opinion of this Court that it is only but fair to refuse the instant application for bail.

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.