

IN THE COURT OF APPEAL OF THE DEMOCRATIC SOCIALIST
REPUBLIC OF SRI LANKA

CA (PHC) APN 97/2013

H.C. Kalutara Bail Application No. BA 269/2012

M.C. Horana Case No: 39008

Gamage Sumithra,
No. 120/5, Badowita,
Mt. Lavinia.

Petitioner

-Vs-

01. Officer-In-Charge
Police Station,
Horana.

02. The Hon. Attorney General,
Attorney General's Department,
Colombo 12.

Respondents

AND

Eswara Wellappili Arachchige
Neil Wasantha

(Presently in Remand Custody)

Suspect

CA PHC APN 97/2013

HC Kalutara BA 269/2012

Before : A.W.A . Salam, J. &

W.M.M. Malinie Gunarathna, J.

Counsel: Neranjan Jayasinghe for the
petitioner and Rajindra Jayarathne, SC for the
Respondents.

Argued &

Decided on: 31.03.2014

A.W.A. Salam, J.

This is an application to revise an order refusing to enlarge the suspect in respect of whom the petitioner-petitioner had applied for bail pending trial. The suspect has been arrested as far back as in May 2008 on an allegation of being in possession of 3700 packets of brown colour powder which has later been identified by the Government Analyst as heroin weighing 1.12 grams and morphine 6.64 grams.

Even though, the State had vehemently opposed the application for bail in the High Court, the learned State Counsel in this court elected not to resist the revision application for obvious reasons.

Quite strikingly, the report of the Government Analyst and the IB extracts had been forwarded to the AG's Department almost 3 years ago, but the suspect had not been indicted yet. This has resulted in the suspect having to languish in remand custody without being charged for almost 6 long years.

It is shocking that the suspect is compelled to be on remand for such a long period without being heard on the allegation. The agony of being incarcerated for 6 years without a trial, by itself constitutes exceptional circumstances.

In the circumstances, we consider it fit to direct the release of the suspect in cash bail amounting to Rest. 100,000/- and surety bail of Rs. 1,000,000 with two sureties who should be his blood relatives. The Passport of the suspect is to be impounded. If he does not possess a passport, the learned Magistrate is directed to inform the Authorities that the suspect is prohibited from leaving the country without prior permission of court.

A copy of this judgment is directed to be forwarded to the Hon Attorney General for information.

JUDGE OF THE COURT OF APPEAL

W.M.M. Malinie Gunarathna, J.

I agree.

JUDGE OF THE COURT OF APPEAL

LA/-