

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

In the matter of an application for a mandate in the nature of writs of certiorari and Prohibition under and in terms of Article 140 of the Constitution of the Democratic Socialist Republic of Sri Lanka

Chandramohan Rojahan
243/4, Negombo Road, Wattala.

Petitioner

C. A. (Writ) Application

No. CA/WRT/400/2025

Vs.

1. Priyantha Weerasekara
Acting Inspector General of Police
Police Headquarters, Colombo 01.

2. D.G.H. Prashantha
Director,
Senior Superintendent of Police (SSP)
Narcotics of Police Bureau.

3. W.A. Sanath Kumara,

Sub Inspector of Police (SI)
Officer in Charge,
Police Narcotic Bureau,
Airport Division, Negombo.

4. Officer in Charge
Police Narcotic Bureau,
Colombo 01.

5. K.N. Jayarathne
Chief Inspector of Police
Acting Officer in Charge
Police Narcotic Bureau,
Colombo 01.

6. J.N.N.C. Perera
Women Chief Inspector of Police
Acting Officer in Charge
Police Narcotic Bureau,
Colombo 01.

7. R.A.A. Randeniya
Chief Inspector of Police
Acting Officer in Charge
Police Narcotic Bureau,
Colombo 01.

8. Hon. Attorney General
Attorney Generals Department
Colombo 12.

9. Hon. Darshima Premaratne

Additional magistrate of
Negombo,
Additional Magistrate Court,
Negombo.

Respondents

Before : **Hon. M.T. Mohammed Laffar, J.(Act.P/CA)**
: **Hon. K. Priyantha Fernando, J.(CA)**

Counsel : Asthika Devendra with Aruna
Madhushanka and Lawrence Adam
Harley for the Petitioner.
Suharshi Herath, D.S.G. for the Respondents.

Supported on : 15.05.2025

Decided on : 30.05.2025

K. P. Fernando, J. (CA)

This matter was supported before the Court for interim relief on 15.05.2025. The Court heard both parties and it was fixed for order on 30.05.2025. Since the respondents have filed their limited objection on 14.05.2025, the Petitioner was permitted to file counter objections within a week.

The Petitioner seeks following interim reliefs from this Court:

- i. Forthwith staying proceedings of the MC Negombo Case No. B 2983/2025 pending before the Additional Magistrate Court of Negombo;
- ii. Forthwith staying said proceedings as far as it relates to the 3rd suspect (Petitioner)

- iii. Directing the 9th respondent to forthwith suspend the Order dated 11.03.2025 to impose travel ban on the Petitioner in the said case;

Or alternatively,

- iv. Directing one or more or all 1st to 9th Respondents to forthwith inform the Immigration Controller to stop acting on the Order dated 11.03.2025 to impose travel ban on the 3rd suspect (Petitioner);
- v. Directing the Respondents to prevent from arresting the Petitioner (3rd suspect) in the said case.

THE PETITIONER'S POSITION as per the Petition-dated 07.04.2025

The Petitioner operates a computer game shop named *PS World* and is the sole financial provider for his family. He claims to have been wrongfully named as the third suspect in Additional B Reports in Case No. 2893/25, asserting that there is no credible evidence linking him to the alleged offense. He further explains that, due to limited access to information and time constraints, he was compelled to file the current application urgently.

B Report dated 16.02.2025:

The Petitioner states that the Police Narcotic Bureau at Katunayake Airport filed a B Report (No. 2893/25) in the Additional Magistrate's Court of Negombo regarding the arrest of a suspect found in possession of 36 kilograms and 152 grams of *hashish*, which contains *cannabis sativa el*. The initial report pertains solely to the narcotics recovered from the first suspect, Joseph Dhivia Ann, who arrived at the Sri Lanka Airport on flight EY 896 from Canada via Abu Dhabi. The Petitioner emphasizes that his name is not mentioned in this initial report.

Additional B Report dated 20.02.2025:

In a follow-up report, the fifth Respondent (Chief Inspector of Police-Acting OIC-Police Narcotic Bureau) revealed that **two additional women arrived with the first suspect and were allegedly involved in drug trafficking but**

managed to evade airport security. The authorities subsequently alleged that a person named Ramya Chandra Mohan alias Roja—the Petitioner—was the mastermind behind the trafficking operation.

The **two women reportedly fled the airport in a van with the license plate WP JJ 0578.** In this report, the **van driver, Isaac Selvan Apnath Demian, was named as the second suspect**, and a detention order was sought under the Poisons, Opium and Dangerous Drugs Ordinance.

The Petitioner asserts there is no connection between himself, the first suspect, and the second suspect. He claims that the second suspect merely provided transport to the two women, from whom no drugs were recovered, and who were not arrested. The Petitioner argues that he was named in the additional report dated 20.02.2025 (P3) without any substantiating evidence, suggesting an attempt to wrongfully implicate him in a crime he did not commit.

Undated Additional B Report (presumed 25.02.2025):

According to the second suspect, he became involved at the direction of a friend named Chandramogan alias Roja, allegedly the Petitioner. **He claimed he was instructed by Roja to pick up two Canadian women from the airport using a van.** Later, he **also used the Petitioner's vehicle, license plate CAS 4697, to try to pick up the first suspect, who never appeared.** **The second suspect then returned to the Petitioner's residence as instructed.**

Upon examining the second suspect's phone, investigators allegedly found that the Petitioner had sent photos of the two Canadian women, which were later deleted. It is also claimed that the second suspect attempted to tamper with evidence by deleting conversations with the Petitioner. However, the Petitioner contends that no such evidence was presented to the court and no court orders were obtained to confirm these allegations.

Furthermore, officers from the Police Narcotic Bureau (PNB) claim another individual named Kuresh was also involved in the trafficking operation alongside the Petitioner.

Additional B Report dated 11.03.2025 (Contested):

The Petitioner states that the 6th Respondent (Women CI of police-Acting OIC of PNB) submitted another report on 11.03.2025, indicating that an individual named Roja was linked to the drug trafficking operation. Based on this, the 3rd Respondent requested a travel ban against the Petitioner. The Petitioner argues that the 9th Respondent, the Additional Magistrate of Negombo, named him as the 3rd suspect and imposed the travel ban **without any credible evidence of his involvement** in the crime.

By the Statement of objections of the 2nd Respondent (Director, SSP-PNB) dated 09.05.2025 following Preliminary Objections were raised:

1. The Petitioner has not presented sufficient facts to warrant the granting of interim relief;
2. The facts stated in the Petition are inaccurate and are disputed by the Respondent;
3. The Petitioner has failed to exhaust the alternative statutory remedies available to him.

The Respondent further argues that issuing an interim order to stay the Petitioner's arrest would negatively impact the rights of other suspects who have already been arrested and produced before the Learned Magistrate. Granting such an order would set an improper and unlawful precedent by effectively endorsing the Petitioner's evasion of due legal process.

It is also stated that although the Petitioner has sought relief under prayer (b)(iii) against the 9th Respondent, the proper course of action would have been to challenge the order of the Learned Magistrate before a different, appropriate forum.

It is also pointed out that the Petitioner himself has acknowledged in the Petition that there is clear and specific evidence against the 1st and 2nd suspects. Therefore, there is no basis for the Petitioner, as the 3rd suspect, to seek any special order from the court.

The Respondent refers to Section 32 of the Code of Criminal Procedure and recent case law to argue that **if an investigator has information or reasonable grounds to believe a person has committed an offence, that individual may be arrested as a suspect**. At that stage, the suspect is not entitled to full disclosure of all evidence gathered against him; he is only entitled to be informed of the offence for which he is being arrested.

It was further contended that the Petitioner is **attempting to bypass established legal procedures by demanding access to investigative materials prematurely** and seeking to argue that there is insufficient evidence to justify his arrest. The Respondent asserts that issues such as **the admissibility of evidence are not relevant at this stage of the investigation**.

To support the legitimacy of the ongoing investigation, the Respondent has attached further reports (marked as 3R1 and 3R2) containing specific investigative materials obtained through the Learned Magistrate. **These include telephone call records and WhatsApp chats between the 2nd and 3rd suspects. These materials demonstrate that the investigation is still in progress and that the legal threshold required for the arrest of the 3rd suspect (the Petitioner) has been met.**

CONCLUSION:

It is common ground that the Magistrate Court Case is still pending which is in the stage of investigation. As admitted by the Petitioner in the petition itself, there is specific evidence against the 1st and 2nd suspects. Therefore, there is no basis for the Petitioner to seek an order from this Court to stay the proceedings in Case B 2893/2025 and to stop further investigation.

The requirement under the law is specifically provided in Section 32 of the Criminal Procedure Code which reads as follows:

When peace officers may arrest without warrant

“32.

- (1) **Any peace officer may** without an order from a Magistrate and without a warrant **arrest any person-**
 - (a) who in his presence commits any breach of the peace;
 - (b) who has been **concerned in** any cognizable offence or against whom a reasonable complaint has been made or **credible information has been received or a reasonable suspicion exists of his having been so concerned;**
 - (c) having in his possession without lawful excuse (the burden of proving which excuse shall lie on such person) any implement of house-breaking;
 - (d) who has been proclaimed as an offender;
 - (e) in whose possession anything is found which may reasonably be suspected to be property stolen or fraudulently obtained and who may reasonably be suspected of having committed an offence with reference to such thing;
 - (f) who obstructs a peace officer while in the execution of his duty or who has escaped or attempts to escape from lawful custody;
 - (g) reasonably suspected of being a deserter from the Sri Lanka Army, Navy, or Air Force;
 - (h) found taking precautions to conceal his presence under circumstances which afford reason to believe that he is taking such precautions with a view to committing a cognizable offence;

(i) who has been concerned in or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists of his having been concerned in any act committed at any place out of Sri Lanka, which if committed in Sri Lanka would have been punishable as an offence and for which he is under any law for the time being in force relating to extradition or to fugitive persons or otherwise liable to be apprehended or detained in custody in Sri Lanka.

(2) Anything in this section shall not be held to interfere with or modify the operation of any enactment empowering a peace officer to arrest without a warrant.” (the emphasis was added)

It is clear from the above provisions that, if the investigator has information to believe that a person has committed an offence or **if there is a reasonable suspicion**, the Investigator can proceed to arrest that person as a suspect.

IS CREDIBLE INFORMATION RECEIVED OR A REASONABLE SUSPICION EXISTS CONCERNING THE PETITIONER REGARDING THE OFFENCE REPORTED TO THE MAGISTRATE?

The 6th respondent who is the Chief Inspector of Police (IP) and Acting Officer in Charge of Police Narcotic Bureau has testified by way of an Affidavit marked 2R3 and stated as follows:

1. Upon investigating pertaining to the 1st suspect namely Joseph Dhivia Ann, it was revealed that two more women holding Canadian Passports, namely Miller Victoria Marie (AR 508135) and Clove Rose (HM 270460) has arrived.
2. They have had drugs which is like “Hash” found from the 1st suspect; all three women have been given 3 bags consisting “Hash” on 14.12.2024 at a place near Toronto Western Premier Hotel by a Canadian person who is operating the drug business.
3. Those two women had left Sri Lanka on 17.02.2025.

4. They have avoided security personnel and came out from the Airport; the person who has arrived to take these two women has been identified as Isac Selvan Afnath Damian-2nd suspect.
5. Upon investigations conducted regarding the 2nd suspect, it has revealed that said Damian has carried out the drug business along with Chandra Mohan Rojahan (3rd suspect).
6. Upon further investigation, it was revealed that two women have gone to the Katunayake Airport under the direction of the 3rd suspect; those two women have been escorted out from the Airport by the 2nd suspect using the Van bearing No. JJ 0578 and given back to the 3rd suspect; the 2nd suspect has again gone to the Airport by the Car bearing No. CAS 4697 used by Rojahan and waited until the 1st suspect who was taken for custody by the Customs Officials, coming out of the Airport.
7. Since the said 1st suspect did not return from the Airport, the 2nd suspect has returned to the Rojahan's house.
8. Upon examination of the 2nd suspect's phone, it was revealed that the photos of three Canadian women which has been sent to the phone has been deleted and conversations had with Rojahan has been erased.
9. A report has been called regarding deleted data from the Examiner of Questioned Documents by letter dated 02.04.2025 and the report is yet to be received.
10. It was revealed that Rajmohan (3rd suspect) has taken the two women to the Shangrilla Hotel and paid for their accommodation; the CCTV images and copies of the documents relating to such facts at Shangrilla Hotel are tendered to the Court on 31.02.2025 under PR No. 311/2025.
11. After the arrest of the 2nd suspect, the 3rd suspect has left the rented-out house along with wife and two children at No. 10, 2nd Lane, Kristuraja Mawatha, Hendela, Wattala as stated by the house owner. This proves that he has absconded.

It is clearly seen that sufficient reasonable information relating to the drug offence has been revealed during the investigation and correct facts have been submitted to the Magistrate Court by way of B report and further reports.

Further reports (3R1 and 3R2) submitted to the Magistrate Court has revealed that report relating to deleted calls and messages between the 2nd suspect and Petitioner is still due. The Petitioner must explain to the investigating authorities as to why the messages and calls were deleted, whether he made the payments to the hotel relating to two women and why he has suddenly left his usual address with his family. It is common ground that the investigations still underway.

From the material elicited by the Further reports submitted to the Magistrate and the affidavits submitted to this Court, it is apparent that there is enough material for the investigators to arrest the Petitioner.

They are entitled to act under Section 32 of the Criminal Procedure Code when **credible information has been received or a reasonable suspicion exists of his having been so concerned.**

In the instant case, the information revealed shows that reasonable suspicion exists as to the Petitioner having been concerned with the offence indicated in the B report.

If the Petitioner truly believes that he has been made a suspect without any base, he should voluntarily make a statement to the authorities get relieved himself. If he believes that he has unfairly been made a suspect, he is duty bound to give a statement as to his innocence without evading arrest.

When the investigators are of the opinion that there is reasonable suspicion but the Petitioner contends that there is no reasonable suspicion, the Petitioner must explain as to why the suspicion is not reasonable. The only way to establish his innocence is to give Petitioner's statement to the investigating authorities clarifying his side of the story. Until such statement is given, the reasonable suspicion will prevail and the Petitioner is subject to arrest. It is my view that there is no material adduced for this Court to decided

that the Respondents acted illegally/unreasonably by naming the Petitioner as the 3rd suspect.

Thus, the Petitioner has no basis to get a direction by way of a writ to quash and/or stay the proceedings before the Magistrate and/or get a direction to stop acting on the Order dated 11.03.2025 to impose travel ban on the 3rd suspect and/or staying the arrest of the Petitioner.

Furthermore, in terms of the law, the Petitioner has every right to challenge the order of naming him as a suspect before the very Magistrate Court. If his application is refused, then the Petitioner can challenge the said order before the High Court by way of appeal or revision. Instead of invoking the alternative remedy provided by law, the Petitioner has chosen to invoke the discretionary Writ jurisdiction of this Court, which is not justifiable. Where the law provides a right to appeal or revisionary jurisdiction to an aggrieved party, that party is precluded from invoking the discretionary jurisdiction without first exhausting the available remedies. The Petitioner has entirely failed to satisfy this Court as to why he opted not to invoke such alternative remedy. In fact, this conduct shows that the Petitioner is trying to evade the investigating authorities from taking a statement from him which would certainly reveal facts relating to the incident or offence impugned in the B report and further reports.

For the foregoing reasons, the application for interim orders is refused, formal notices are refused and the application is dismissed with cost fixed of Rs. 15,650/-. *Notice refused. Application dismissed.*

Judge of the Court of Appeal

M.T. Mohammed Laffar, J.(Act.P/CA)

I agree.

Judge of the Court of Appeal