

**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 Section 83(2) of the Poisons, Opium and Dangerous Drugs Ordinance No. 17 of 1929 as amended by Poisons, Opium and Dangerous Drugs (Amendment) Act No. 41 of 2022.

Officer in Charge,  
Police Narcotics Bureau,  
Colombo 01.

**Court of Appeal Case No.**

**CA/BAL/0269/2024**

**Complainant**

**Magistrates Court of Mahara**

**Vs.**

**Case No. B 4242/2023**

Athige Sandeep Kanishka Silva

**Suspect**

**AND NOW BETWEEN**

Randobage Prasanthika Prabodhani De Silva.

**Petitioner**

**Vs.**

1. Hon. Attorney General,  
Attorney General's Department,  
Colombo 12.

**Respondent**

2. Officer in Charge,  
Police Narcotics Bureau,  
Colombo 01.

**Complainant-Respondent**

**BEFORE :** **P. KUMARARATNAM, J.**  
**K.M.G.H. KULATUNGA, J.**

**COUNSEL:** Sanjith Senanayake with Upul Dissanayake for the Petitioner.  
Oswald Perera, SC for the Respondents.

**INQUIRY ON:** 25.02.2025

**DECIDED ON:** 02.04.2025

**K.M.G.H. KULATUNGA, J.**

**ORDER**

1. This is an application preferred under Section 83(2) of Poisons, Opium and Dangerous Drugs Ordinance by the petitioner on behalf of the suspect-respondent. According to the petitioner, the suspect was arrested on 06.09.2023 for the alleged possession of 54.4 grammes of amphetamine. Then, a second recovery of 50.9 grammes had been made upon his arrest. The pure quantities according to the Government Analyst's Report dated 08.01.2024 are 20.87 and 18.36 grammes respectively.
  
2. The petitioner denied the alleged possession and alleges a false introduction. Those being the facts, the exceptionality urged is an eye condition of the accused's which is a ground based on ill health. According to Mr. Sajith Senanayake AAL, due to an accident some time ago, the suspect had sustained an injury to his right eye and was losing

his sight since 2016. Similarly, due to a diabetics related traumatic glaucoma condition has now developed in his left eye and is losing his eye sight in that eye too. In support a *clinic report* depicting his current glaucoma condition was tendered to this court along with a motion. This confirms '*glaucoma of L/eye*'. The learned State Counsel conceded that the said condition affecting the eye is a health condition. However, submitted that he can and is now been treated and receiving necessary treatment from the Prison Hospital.

3. The petitioner has no previous convictions or pending cases either. He had been in remand for one year and five months. The learned State Counsel submitted that the indictment had been dispatched on 29.01.2025 under AG's reference CR3/449/2024.
4. The suspect losing his sight in the right eye may be due to a previous incident but now his left eye is being afflicted by a state of glaucoma, which is said to be affecting his sight in the left eye. To my mind, this would constitute a ground of ill-health that may be considered exceptional. The State Counsel, no doubt, submitted that treatment is available in the Prison Hospital. A person who is threatened with blindness in this context, and considering the dynamics of glaucoma, such persons will certainly require optimum conditions to maintain their health. It is a notorious fact that conditions within the precincts of the remand prisons is far from optimum.
5. It is common ground that there is no report of any previous convictions nor pending matters. No doubt, an indictment has been dispatched on 29.01.2021. It is not the dispatching of the indictment that is relevant, but taking one year and five months to forward the same and the absence of a reasonable explanation for taking such time. All in all, considering the totality of the circumstances that is unique to the suspect cumulatively may be considered exceptional. Thus, the suspect is entitled to be granted bail under Section 83 (2). Accordingly,

bail is granted to the suspect Athige Sandeep Kanishka Silva, subject to the following conditions:

1. cash bail in a sum of Rs. 50,000.00;
  2. to provide two sureties who should execute bonds to the value of Rs. 500,000.00 each and one of the sureties should be a close relative of the suspect;
  3. Sureties are required to provide certificates from the Grama Sevaka from the respective residential areas of such sureties;
  4. to surrender the Passport or any travel document of the suspect if he has any, to the Registrar of the Magistrate's Court of Mahara;
  5. to report to the Officer-in-Charge of the Police Narcotics Bureau on last Sunday of every month before 12 noon; and
  6. further, a travel ban is imposed until the final determination of this matter and the Registrar is directed to inform the Controller of Immigration and Emigration of this order for necessary action.
6. This application is accordingly allowed and the Registrar of this Court is directed to transmit a copy of this order to the Registrar of the Magistrate's Court of Mahara.

**JUDGE OF THE COURT OF APPEAL**

P. Kumararatnam, J.

I agree.

**JUDGE OF THE COURT OF APPEAL**