

IN THE COURT OF APPEAL OF THE DEMOCRATIC SOCIALIST

REPUBLIC OF SRI LANKA

Court of Appeal Case No:

CA Bail 32/2020

Magistrate Court Kalawana

Case No: 20128

**In the matter of an application for bail
under section 10 (1) (a), (b) of the
Assistance to and Protection of Victims of
Crimes and Witnesses Act No 4 of 2015.**

MolligodaLiyanageShanakaMolligoda,

Kodippili Kanda,

Nawala Kanda,

(And now in Kuruwita Remand Prison)

PETITIONER

Vs.

01. Officer In Charge
Police Station
Kalawana

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

RESPONDENTS

Before - 1.MENAKAWIJESUNDERA J.

2. NEIL IDDAWALA J.

Counsel - Mr. Nissanka Nanayakkara P.C with

Mr. Naveen Hettiyadurage and Mr. Yasas De Silva for the petitioner

Miss. Chathurangi Mahawaduge, S.C for the respondents.

Argued On –25.01.2021

Decided On –23.02.2021

MENAKA WIJESUDERA J.

The instant application is an application for bail where the petitioner according to the complainant has threatened the complainant on 2.7.2020 at the Kalawana petrol station. This incident had been witnessed by the complainant's driver and her two nieces. According to the complainant her driver was assaulted and threatened by the petitioner during the same incident. The statements of the said driver and the nieces of the complainant is part and parcel of the record.

It is the position of the respondents that the petitioner has three pending cases of similar nature and it has not been divulged in the petition. The position of the petitioner is that based on this allegation he has been remanded under the provisions of the Assistance to Protect Victims of Crimes and Witnesses Act No 4 of 2015 since the date of the alleged threat. The petitioner further states that if charges are filed against him they would be charges which are compoundable before the Magistrate.

The position of the respondent is that under the relevant act under which the petitioner had been kept in remand custody requires this Court to consider exceptional circumstances if bail is to be considered.

The position of the petitioner is that the exceptionality is the nature of the offences for which he can be charged and they being all compoundable offences, he being kept in remand is not justifiable because the offence had taken place during election time and now that period is also over.

In view of the matters urged before us it is fair and just to enlarge the petitioner on bail but this court severely warns the petitioner hereafter not to interfere with the complainant and if he does and if it is reported all the following bail conditions would be cancelled.

Therefore this Court decides to enlarge the petitioner on

- 1) Rs 100000 cash bail,
- 2) Rs 200000 surety bail for two sureties
- 3) The petitioner to report to the relevant police station on every 2nd and the 4th Sunday of every month before 2pm.
- 4) The petitioner not to interfere with the complainant or any person associated to her, if reported all bail conditions would be cancelled.

The Registrar of this court is hereby directed to communicate the above order to the relevant Magistrates Court.

Judge of the Court of Appeal

NEIL IDDAWALA J.

I Agree

Judge of the Court of Appeal

