

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

C.A. (PHC) APN 17/2014

H.C. Monaragala Case No:Bail 94/13

M.C. Wellawaya Case No:BR 938/2013

Mala Damayanthi,
Gaminipura,
Thanamalwila.

Petitioner

-Vs-

OIC
Police Station,
Wellawaya.

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

Respondents

Liyana Arachchige Thushitha Dananjaya

Suspect

C.A. (PHC) APN 17/2014

- **H.C. Monaragala Case No:Bail 94/13**
M.C. Wellawaya Case No:BR 938/2013

BEFORE : A.W.A. SALAM, J. (P/CA) &
SUNIL RAJAPAKSHE, J.

COUNSEL : Neranjan Jayasinghe for the Petitioner.
Rajinda Jayaratne SC for the A.G.

ARGUED &
DECIDED ON : 02.07.2014

A.W.A. SALAM, J. (P/CA)

This is a revision application filed against the order of the learned High Court Judge refusing bail to the suspect in respect of whom the petitioner has sought relief. The learned State Counsel while making submissions did not seriously object to the revision application being allowed. The learned Counsel for the petitioner adverted us to the facts reported in the B report which reveal that the cannabis in question weighing 43kg out of the total quantity of 83kg had been found on top of a nearby rock where the suspect resided. This needs to be viewed as a fact favourable to the suspect in deciding as to whether he had exclusive possession of the cannabis. The suspect has been taken into custody on 11.08.2013 and the bail application had been refused on the basis that no exceptional circumstances had been established on his behalf. However, as at today he has been in incarceration for almost 11 months and the minimum sentence for this offence is two years. The Penal section also empowers the Court to impose on the suspect if he found guilty only a fine without imposing a custodial term. In the circumstances, the confinement of the suspect for a period of 11 months can be taken as exceptional circumstances. As such, we revise the order of the learned High Court Judge and grant cash bail to the suspect in a sum of Rs.25,000/- with two sureties.

PRESIDENT OF THE COURT OF APPEAL

SUNIL RAJAPAKSHE, J.

I agree.

JUDGE OF THE COURT OF APPEAL

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