

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

In the matter of an application for revision in
terms of Article 138 of the Constitution of the
Democratic Socialist Republic of Sri Lanka.

C. A. (PHC) APN No. 40/2019

H.C. Tangalle HC 15/2006

Abewickrama Gunarathna Somapala
Galkandahena, Udugalmote Nihiluwa,
Beliatta.

PETITIONER.

VS.

1. Hon. Attorney General
Attorney General's Department,
Colombo-12
2. Officer-in-Charge,
Police Station,
Beliatte

RESPONDENTS

3. Abewickrama Gunarathna Sujith
Kumara alias Galpale Podda.

1st Accused- Respondent.

BEFORE : **HON. JUSTICE ACHALA WENGAPPULI**
HON. JUSTICE DEVIKA ABEYRATNE

COUNSEL : Anuja Premarathna, PC with Tarangee Muthukumarana for
the Petitioner.
Panchali Witharana, SC for the Attorney- General.

ARGUED & : 30th of January, 2020

DECIDED ON

HON. JUSTICE ACHALA WENGAPPULI

The Accused-Petitioner was indicted by the Hon. Attorney General on several charges in relation to causing double murder and attempted murder of three other persons.

At the early stages, the Accused-Petitioner had absconded and had thereafter surrendered to Court. He informed Court for his continued absence on the basis of existence of a death threat and since the death of the person who issued the death threat he decided to surrender himself to the jurisdiction of Court.

Learned President's Counsel for the Accused-Petitioner informs Court thereafter the trial court had commenced proceedings and had led several witnesses. However, the trial could not be concluded due to a transfer of the learned Trial Judge. Since the prosecution case has reached its tail-end, an application would be made continue with

the same Trial Judge. However, he urges that the Accused- Petitioner was in remand for over more than two years. The Bail Act Provisions apply for the Accused-Petitioner and the application of the relevant provisions of the Bail Act mandates that he should not be held beyond a period of two years.

Learned State Counsel for the Respondent admits that the Accused-Petitioner was in remand for over more than two years. However, she admits that the conduct of the Accused-Petitioner in absconding made him disentitled to be enlarged on bail.

This Court when considering the provisions of the Bail Act, noted that it does not provide for a person to be kept in remand for more than 2 years.

Therefore, this Court decides to enlarge the Accused- Petitioner on bail. However, having noted his conduct and the antecedents, this Court is of the view that he should be enlarged on bail with very strict conditions.

Accused- Petitioner must furnish cash bail in a sum of Rs. 100,000/-. He also must produce two sureties who are capable of signing surety bonds with properties over Rs. 1 Million each.

Since the Accused Petitioner is a resident of Beliatte area he is ordered to report to the Officer-in-Charge of the Beliatte Police Station every Sunday between 9.00 a.m. and 3.00 p.m. He must not interfere with any of the witnesses and should be present on all Court days. Violation of any of these conditions above, will result in cancellation of bail.

Relevant High Court is directed to enlarge the Accused-Petitioner on the above conditions and also ensure to that the trial is concluded expeditiously as possible. The Accused-Petitioner is entitled to a certified copy of this order upon payment of usual charges.

Registrar is directed to forward this copy to the Officer-in-Charge of the Police Station Beliatte and also to the Registrar of the High Court of Tangalle .

Application is allowed.



JUDGE OF THE COURT OF APPEAL

HON. JUSTICE DEVIKA ABEYRATNE

I agree.



JUDGE OF THE COURT OF APPEAL

KN/-