

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

In the matter of an application in terms of  
Article 126 read with Article 17 of the  
Constitution of the Democratic Socialist  
Republic of Sri Lanka.

**SC FR Application No. 203/2024**

M. A. Sumanthiran  
No. 3/1,  
Daya Road,  
Colombo 06.

**PETITIONER**

**Vs.**

1. I. S. H. J. Illukpitiya  
The Controller General of Immigration  
and Emigration,  
Suhurupaya,  
Sri Subhuthipura Road,  
Battaramulla.
2. Viyani Gunathilaka  
Secretary,  
Ministry of Public Security,  
15<sup>th</sup> Floor,  
Suhurupaya,  
Sri Subhuthipura Road,  
Battaramulla.
3. T. V.D. Damayanthi Karunaratne

Additional Secretary,  
Ministry of Public Security,  
15<sup>th</sup> Floor,  
Suhurupaya,  
Sri Subhuthipura Road,  
Battaramulla.

4. M. P. D. P. Pathirana  
Chief Financial Officer,  
Ministry of Public Security,  
15<sup>th</sup> Floor,  
Suhurupaya,  
Sri Subhuthipura Road,  
Battaramulla.
5. M. R. G. A. B. Muthukude  
Additional Director General Department  
of Fiscal Policy,  
Ministry of Finance,  
Echelon Square,  
Colombo 01.
6. R. G. C. P. D. Ramawickrama  
Senior Assistant Secretary,  
Ministry of Public Administration, Home  
Affairs, Provincial Councils and Local  
Government,  
Independence Square,  
Colombo 07.
7. Mahinda Siriwardena,  
Secretary,  
Ministry of Finance,

Echelon Square,  
Colombo 01.

8. Tiran Alles, M.P.

Minister of Public Security,  
Ministry of Public Security,  
15<sup>th</sup> Floor,  
Suhurupaya,  
Sri Subhuthipura Road,  
Battaramulla.

9. Nalaka Jude Harin Fernando, M.P.

Minister of Tourism and Lands, Sports  
and Youth Affairs,  
07<sup>th</sup> Floor,  
Sri Lanka Institute of Tourism and Hotel  
Management,  
Galle Road,  
Colombo 03.

10. Hon. Attorney General

Attorney General's Department,  
Colombo 12.

11. Hon. Dinesh Chandra Rupasingha

Gunawardena, M.P.

Hon. Prime Minister,  
Minister of Public Administration, Home  
Affairs, Provincial Councils and Local  
Government,  
Independence Square,  
Colombo 07.

12. Nimal Siripala de Silva, M.P.

Minister of Ports, Shipping and Aviation,  
Chaithra Road,  
Colombo 01.

13. Pavithra Devi Vanniarachchi, M.P.

Minister of Wildlife, Forest Resources  
Conservation and Irrigation,  
No. 07,  
Hector Kobbekaduwa Mawatha,  
Colombo 07.

14. Douglas Devananda, M.P.

Minster of Fisheries,  
New Secretariat,  
Maligawatta,  
Colombo 10.

15. Susil Premajayantha, M.P.

Minister of Education,  
Isurupaya,  
Battaramulla.

16. Bandula Gunawardena, M.P.

Minister of Transport and Highways  
and Minister of Mass Media,  
07<sup>th</sup> Floor,  
Sethsiripaya,  
Stage II,  
Battaramulla.

17. Nalin Fernando, M.P.

Minster of Trade, Commerce and Food  
Security,  
No. 492,

R. A. De Mel Mawatha,  
Colombo.

18. Amaraweera Mahinda, M.P.  
Minister of Agriculture,  
Minister of Wildlife of Forest  
Resources  
Conservation,  
No. 80/5,  
Govijana Mandiraya,  
Rajamalwatta,  
Battaramulla.

19. Wijayadasa Rajapaksha, M.P.  
Minister of Justice, Prison Affairs and  
Constitutional Reforms,  
No. 19,  
Sri Sangaraja Mawatha,  
Colombo 10.

20. Prasanna Ranatunga, M.P.  
Minister of Urban Development and  
Housing,  
17<sup>th</sup> and 18<sup>th</sup> Floors,  
Suhurupaya,  
Subhuthipura Road,  
Battaramulla.

21. M. U. M. Ali Sabry, M.P.  
Minister of Foreign Affairs,  
Republic Building,  
Sir Baron Jayathilake Mawatha,  
Colombo 01.

22. Vidura Wikramanayaka, M.P.  
Minister of Buddhasasana, Religious  
and Cultural Affairs,  
08<sup>th</sup> Floor,  
Sethsiripaya,  
Battaramulla.
23. Kanchana Wijsekera, M.P.  
Minister of Power and Energy,  
No. 437,  
Galle Road,  
Colombo 03.
24. Maligaspe Koralege Nalin Manusha  
Nanayakkara, M.P.  
Minister of Labour and Foreign  
Employment,  
06<sup>th</sup> Floor,  
Mehewara Piyesa,  
Narahenpita,  
Colombo 05.
25. Jeevan Thondaman, M.P.  
Minister of Water Supply and Estate  
Infrastructure Development,  
No. 45,  
St. Michaels Road,  
Colombo 03.
26. Mr. W. M. D. J. Fernando,  
Secretary to the Cabinet of Ministers,  
Lloyd's Building,  
Sir Baron Jayathilaka Mawatha,

Colombo 01.

27. Mobitel (Pvt) Limited

No. 148/15,  
Lesley Ranagala Mawatha,  
Baseline Road,  
Colombo 08.

28. Sri Lanka Telecom PLC

No. 503,  
Lotus Road,  
Colombo 01.

29. GBS Technology Services and IVF

Global- FZCO  
IFZA Dubai Digital Park,  
Dubai Silicon Oasis,  
Dubai,  
United Arab Emirates.

30. VF Worldwide Holdings Ltd.

Unit 3101A,  
Jumerirah Business Centre 01,  
Cluster - G, JLT,  
Dubai,  
United Arab Emirates.

31. GBS Technology Services PTE Ltd.

No. 137,  
Telok Ayer Street, (#08-08)  
Singapore (068602).

32. IVS Global Services (Pvt) Ltd.

Attestation Centre,  
Ground Floor -13B,

Arunachal Building,  
Building No. 19,  
Barakhamba Road,  
New Delhi -110001,  
India.

**RESPONDENTS**

**AND BETWEEN**

M. A. Sumanthiran,  
No. 3/1,  
Daya Road,  
Colombo 06.

**PETITIONER-COMPLAINANT**

**Vs.**

1. I. S. H. J. Illukpitiya  
The Controller General of Immigration  
and Emigration,  
Suhurupaya,  
Sri Subhuthipura Road,  
Battaramulla.

**1<sup>st</sup> RESPONDENT-ACCUSED**

In the matter of an application for bail  
under and in terms of Section 9(7)(b) of  
the Contempt of Court, Tribunal or  
Institution Act, No. 8 of 2024.

1. I. S. H. J. Illukpitiya



The Controller General of Immigration  
and Emigration,  
Suhurupaya,  
Sri Subhuthipura Road,  
Battaramulla.

*and*

No. 233/17,  
Galagahena,  
Pitipana North,  
Kiriwaththuduwa.

*(Presently held in Colombo Remand Prison)*

**1<sup>st</sup> RESPONDENT-ACCUSED**

**PETITIONER**

**Vs.**

M. A. Sumanthiran,  
No. 3/1,  
Daya Road,  
Colombo 06.

**PETITIONER-COMPLAINANT-  
RESPONDENT**

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

**10<sup>th</sup> RESPONDENT- RESPONDENT**

**BEFORE** : P. PADMAN SURASENA, J.  
E. A. G. R. AMARASEKARA, J.  
ACHALA WENGAPPULI, J.

**COUNSEL** : The Petitioner M.A. Sumanthiran appears in person.

Saliya Pieris, PC with Upul Kumarapperuma, PC with Kaneel Maddumage, Ms. Minuri Pieris and Duvini Godagama for 1<sup>st</sup> Respondent instructed by Praveen Premathilake.

Ms. Viveka Siriwardena, PC, ASG with Rajitha Perera, DSG and Ms. Sureka Ahmed, SSC for the 3<sup>rd</sup>, 4<sup>th</sup>, 10<sup>th</sup> and 26<sup>th</sup> Respondents.

Uditha Egalahewa, PC with Damitha N.K.K. Karunarathne and Miyuru Egalahewa for 27<sup>th</sup> and 28<sup>th</sup> Respondents instructed by Saravanan Neelakandan Law Associates.

Suren de Silva and Jivan Goonetilleke and Jehan Samarasinghe for 29<sup>th</sup>, 31<sup>st</sup>, 32<sup>nd</sup> Respondents instructed by D.L. & F de Saram.

Nigel Hatch, PC with Ms. Siroshini Illangage for 30<sup>th</sup> Respondent instructed by Sudath Perera Associates.

INQUIRY ON : 29<sup>th</sup> January, 2025

ORDER ON : 04<sup>th</sup> April, 2025

ACHALA WENGAPPULI, J

When the Petitioners of these three Fundamental Rights Applications supported their petitions seeking leave to proceed on 13.09.2024, this Court, having considered the submissions of all Counsel, decided to grant Leave to Proceed against the 1<sup>st</sup> to 25<sup>th</sup> Respondents in respect of the alleged infringements of the Fundamental Rights guaranteed to the said Petitioners under Article 12(1) of the Constitution.

On that date, this Court granted several Interim Orders. The following Interim Order was amongst them:

*An Interim Order directing the 1<sup>st</sup> to 25<sup>th</sup> Respondents as well as the 27<sup>th</sup> to 28<sup>th</sup> Respondents their servants, agents, successors or assigns or any other relevant State functionary to take all steps to maintain the status quo ante that prevailed as at 16-04-2024, which is the date of discontinuation of the previously prevailed ETA system.*

Thereafter, the Attorney-at-Law who represented the 1<sup>st</sup> Respondent-Accused-Petitioner then, has filed the Motion dated 13.08.2024 followed by the Motion dated 15.08.2024 to which the affidavit of the 1<sup>st</sup> Respondent-Accused-Petitioner dated 14.08.2024 was found attached. These two Motions and the affidavit revealed that the 1<sup>st</sup> Respondent-Accused-Petitioner has admittedly failed to give effect to the afore-stated Interim Order made by this Court on 13.09.2024. Thereafter, pursuant to an inquiry, Court decided to take cognizance of the commission of a *prima facie* offence of contempt of Court, alleged to have been committed against this Court or in disrespect of its authority by the 1<sup>st</sup> Respondent-Accused-Petitioner. Thereafter, the Court, having directed the Petitioners to submit a draft rule in terms of Section 9(7)(a) of the Contempt of a Court, Tribunal or Institution Act No. 08 of 2024, also directed the Registrar of Court to mention the case on 25.09.2024.

On 25.09.2024, Court served the Rule under the hand of the Registrar of this Court on the 1<sup>st</sup> Respondent-Accused-Petitioner. This Court, through its Registrar, read over the said rule to the 1<sup>st</sup> Respondent-Accused-Petitioner. On the same day Court made an order under Section 9(7)(a) of the Contempt of a Court, Tribunal or Institution Act No. 08 of 2024, detaining the 1<sup>st</sup> Respondent-

Accused-Petitioner under fiscal custody until the conclusion of the inquiry relating to the alleged offence of contempt of Court. In consequence to the said Order of Court the 1<sup>st</sup> Respondent-Accused-Petitioner has filed the instant Petition dated 01.11.2024, praying for an order of Court releasing him on bail.

This Court inquired into the said application for bail on 29.01.2025 and concluded the same. The Court heard Mr. *Saliya Peiris* PC, in support of the said application as per the Petition dated 01.11.2024, and also heard the submissions of the Petitioners, submissions of the learned ASG and the submissions of the learned Counsel for the other parties. Since the 1<sup>st</sup> Respondent-Accused-Petitioner filed similar petitions in SC FR No.204/2024 and SC FR No.205/2024 and sought identical reliefs as he did in the instant application, a consolidated order is hereby pronounced in respect of SC FR No. 203/2024, which should also be applicable to the other two applications, i.e., SC FR No.204/2024 and SC FR No.205/2024.

The several grounds on which the 1<sup>st</sup> Respondent-Accused-Petitioner seeks an order releasing him on bail are set out from paragraph 18 to paragraph 28 of his Petition dated 01.11.2024. They could be reproduced in summarised form to read as follows:

- His wife is a special education teacher who is currently working at a reputed school;
- His eldest daughter who is 25 years of age is currently in the United Kingdom, reading for a Master's Degree and therefore he has to bear her expenses;
- His second daughter who is 22 years of age is currently pursuing a Bachelor of Arts degree in fashion designing at the National Institute of Business Management and therefore he has to bear her expenses.

- His youngest son who is 15 years of age also studies in a reputed school who is due to sit for the GCE Ordinary Level examination.
- His mother-in-law who is 79 years of age needs special care and treatment due to her age and it is the Petitioner who takes care of her.
- He has sold his personal vehicle for a sum of rupees, 7.3 Million in order to provide the course fee and other expenses of his eldest daughter who recently went abroad for higher studies.

We have carefully considered the set of circumstances urged by the learned President's Counsel in support of the instant application for bail. However, we are of the view that these grounds are common grounds that are applicable to almost all the accused, if not for most, of those who are accused of committing offences. Further, we are also of the view that these grounds are of a very general in nature and vague.

In addition to the above grounds, the petitioner also has stated that he is suffering from an asthmatic condition and therefore has been advised to use an inhaler on a daily basis. Admittedly, the Petitioner has received treatment from the *Welikada* Prison hospital as per paragraph 20 of his Petition dated 01.11.2024.

Since the 1<sup>st</sup> Respondent-Accused-Petitioner has already received treatment from *Welikada* Prison Hospital, we are not inclined to accept this as a valid ground to release him on bail at this stage, particularly in view of the Order this Court has made detaining him until the conclusion of the inquiry into the contempt of the Court charge.

In paragraph 21, the Petitioner has relied on a diagnosis of certain medical condition of his wife. However, this diagnosis is in respect of his wife and not in respect of the 1<sup>st</sup> Respondent-Accused-Petitioner.

Although there are other grounds put forward by the 1<sup>st</sup> Respondent-Accused-Petitioner in paragraph 21-23, we are unable to accept any one of those grounds as serious conditions, which are in the circumstances of this case, would warrant releasing the 1<sup>st</sup> Respondent-Accused-Petitioner on bail.

In these proceedings Court has taken serious note of the alleged act of wilful default by the 1<sup>st</sup> Respondent-Accused-Petitioner to comply with the said interim order made by this Court.

We have to take note of the fact that by the Order dated 25.09.2024, this Court has made an order detaining the 1<sup>st</sup> Respondent-Accused-Petitioner until the conclusion of the inquiry. It appears to us that although the Court is ready to commence and conclude the inquiry into the alleged contempt of court charge, the 1<sup>st</sup> Respondent-Accused-Petitioner is more concerned about changing the direction of the case to that of an inquiry for bail rather than taking interest and all steps to commence and conclude the inquiry into the contempt of court charges. The learned President's Counsel for the 1<sup>st</sup> Respondent-Accused-Petitioner informed this Court that the 1<sup>st</sup> Respondent-Accused-Petitioner has already filed his *show cause*. Therefore, what remains is for this Court to proceed with an inquiry. That could be done without delay.

The 1<sup>st</sup> Respondent-Accused-Petitioner is the Controller General of Immigration and Emigration. The evidence against him in relation to the charge of contempt of court is expected to come from the officials who are working directly under him. It is not realistic to presume that the 1<sup>st</sup> Respondent-Accused-Petitioner who is facing a serious charge, i.e. contempt of the apex Court, would not do anything to escape from the said criminal responsibility by employing whatever the tactics under his control to manipulate those

witnesses, who are compelled to work under him, and thereby interfering with the course of justice.

In view of the fact that the 1<sup>st</sup> Respondent-Accused-Petitioner had failed to comply with the aforementioned interim order issued by this Court, the Petitioners of the Fundamental Rights Petition making submissions before this Court on 13.09.2024 brought to the notice of Court that the 1<sup>st</sup> Respondent-Accused-Petitioner had wilfully disobeyed the aforesaid interim order. It was thereafter, acting on the submissions of the Petitioners of the Fundamental Rights Petition who stated that the aforesaid alleged defiance on the part of the 1<sup>st</sup> Respondent-Accused-Petitioner would lead to the collapse of the tourism industry of the Country which is struggling to come out of a serious financial crisis which prevailed in the recent past, that this Court has decided to examine two officials who were present in Court under oath.

This course of action was adopted by this Court with a view to ascertain the correct position in detail with regard to the alleged non-compliance of aforesaid interim order, before it proceeded to make its decision with regard to the application of the Petitioners of the Fundamental Rights Petition to initiate action against the 1<sup>st</sup> Respondent-Accused-Petitioner for contempt of Court. The said officials are, *Herath Mudiyansele Indika Kumara Herath* (Controller IT, Immigration and Emigration Department) and *Hasantha Dodampegama* (Manager Special Business Solution & Sell, Special Project, *Mobitel Pvt. Ltd.*).

Moreover, we are also mindful that if his application seeking bail is considered favourably, the probability of the 1<sup>st</sup> Respondent-Accused-Petitioner's continued participation in the inquiry relating to the charge of contempt of Court pending against him, would greatly be reduced, given the fact that he was functioning as the Controller General of Immigration. Thus, the

flight risk that he poses in such circumstances is a realistic one and therefore could not be ignored by this Court altogether.

By enlarging the 1<sup>st</sup> Respondent-Accused-Petitioner on bail at this stage, this Court would only facilitate the 1<sup>st</sup> Respondent-Accused-Petitioner to take control of the key witness whose evidence was recorded before this Court. One such witness is the 1<sup>st</sup> Respondent-Accused-Petitioner's immediate subordinate officer, who functioned directly under his instructions. The facts of this case being somewhat highly technical in nature, the Court cannot exclude the possibility of such evidence being altered or tampered with by an interested party. Such an exercise by a person with vested interest, can be facilitated only with the blessing of the Head of the relevant Department.

Although the Petitioners who appeared in person informed Court that they would leave the issue of granting of bail in the hands of the Court, we are unable to purely act on that concession granted by them in view of the above reasons.

In the above circumstances, we are convinced that there are sufficient grounds for this Court not to release the 1<sup>st</sup> Respondent-Accused-Petitioner on bail before the conclusion of the inquiry. The Court has already made an Order detaining the 1<sup>st</sup> Respondent-Accused-Petitioner until the final determination of the contempt of court inquiry. Hence, in view of the above reasoning, this Court is not inclined to vary its order made on 25.09.2024. Furthermore, this Court is of the view that it should desist from enlarging the 1<sup>st</sup> Respondent-Accused-Petitioner on bail. Therefore, the Order made by this Court on 25.09.2024, must remain unaltered.



Accordingly, the applications of the 1<sup>st</sup> Respondent-Accused-Petitioner contained in his petition dated 01.11.2024, through which he sought to vary the order made on 25.09.2024 and also for an order of Court releasing him on bail pending inquiry of contempt of Court charge, are hereby refused.

The inquiry into the Contempt of Court Charges and the argument of the main cases are already fixed for 08.05.2025. That date will stand.

**JUDGE OF THE SUPREME COURT**

**P. PADMAN SURASENA, J.**

I agree.

**JUDGE OF THE SUPREME COURT**

**E. A. G. R. AMARASEKARA, J.**

I agree.

**JUDGE OF THE SUPREME COURT**