

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

*In the matter of an application under  
and in terms of Articles 17 and 126 of  
the Constitution of the Democratic  
Socialist Republic of Sri Lanka*

**Bathiudeen Abdul Rishad,**  
410/16, BaudhdhalokaMawatha,  
Colombo 07.

Supreme Court Fundamental  
Rights application No. SC FR

/2021

**PETITIONER**

-Vs-

1. Officer in Charge,  
Special Investigation Unit – III,  
Criminal Investigations  
Department,  
Colombo 01.
2. The Officer in Charge,  
Criminal Investigations  
Department,  
Colombo 01.
3. Director,  
Criminal Investigations  
Department,  
Police Headquarters,  
Colombo 01.
4. Deputy Inspector General,  
Criminal Investigations  
Department,  
Police Headquarters, Colombo 01.
5. C.D.Wickramaratna,  
The Inspector General of Police,  
Police Headquarters,  
Colombo 01.

6. Hon. Attorney General,  
Attorney General's Department,  
P. O Box 512, Hulftsdorp,  
Colombo 12.

**RESPONDENTS**

**On this            day of May 2021**

**TO: HIS LORDSHIP THE HONOURABLE CHIEF JUSTICE AND OTHER  
HONOURABLE JUDGES OF THE SUPREME COURT OF THE  
DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA:**

The Petition of the Petitioner above named appearing by Mrs. Gowry Shangary Thavarasha, his registered Attorney-at-Law, states as follows:

1. The Petitioner, is a citizen of Sri Lanka.
2. The Petitioner received his University Education at the Moratuwa University and being the holder of a National Diploma in Technology (Civil Engineering) from the University of Moratuwa, he is also a Member of the Institute of Incorporated Engineers in Sri Lanka, a Member of the Engineering Council of Sri Lanka and a Graduate of the City and Guilds (London).
3. The Petitioner entered active politics in the year 2000 and has been a Member of Parliament from the Electoral District of Vanni since 2001 and was re-elected in 2004, 2010, 2015 and 2020. At the General Election held on 05<sup>th</sup> August 2020 the Petitioner contested the Vanni District from the Samagi Jana Balawegaya and having obtained the highest preferential votes in the Vanni District was elected as a Member of Parliament. Presently he is a member representing the opposition in Parliament.
4. Furthermore, the Petitioner is the Leader of the All Ceylon Makkal Congress a Registered Political Party. The Petitioner has also held the following portfolios;
  - a. Minister of Rehabilitation and Vanni Development (Non-Cabinet).
  - b. Minister of Resettlement (Non-Cabinet).
  - c. Minister of Resettlement and Disaster Relief Services.

- d. Minister of Industry and Commerce.
  - e. Minister of Industry & Commerce, Resettlement of Protracted Displaced Persons and Cooperative Development.
  - f. Minister of Industry & Commerce, Resettlement of Protracted Displaced Persons, Cooperative Development and Vocational Training & Skills Development.
5. The Petitioner states that,
- a. The 1<sup>st</sup> Respondent is the Officer in Charge of the Special Investigation Unit – III of the Criminal Investigations Department (hereinafter referred to as the CID) which undertakes investigations and is presently conducting investigations pertaining to the Easter Sunday Bombings that occurred on 21<sup>st</sup> April 2019.
  - b. The 2<sup>nd</sup> Respondent is the Officer in Charge of the CID.
  - c. The 3<sup>rd</sup> Respondent is the Director of the CID, under whose supervision and direction investigations are conducted by the 1<sup>st</sup> Respondent.
  - d. The 4<sup>th</sup> Respondent is the Deputy Inspector General of Police in Charge of the CID and is in overall supervision and control of the conduct of the affairs of the CID including its administration and the conduct of investigations.
  - e. The 5<sup>th</sup> Respondent is the Inspector General of Police, the Head of the Sri Lanka Police Department and supervises and controls the Police Department and its members, including the CID.
  - f. The Petitioner states that the 6<sup>th</sup> Respondent is the Hon. Attorney General who has been named as a party in terms of Article 134 of the Constitution. He has been also made a party in terms of Article 35 (2) of the Constitution as H.E. the President has made an order under the Provisions of the Prevention of Terrorism (Temporary Provisions) Act No. 48 of 1979 to detain the Petitioner which the Petitioner seeks to impugn the said order in this application.
6. The Petitioner states that on 21<sup>st</sup> April 2019, Easter Sunday, three churches in Sri Lanka and three luxury hotels in Colombo, were targeted in a series of coordinated terrorist suicide bombings causing the death of a large number of

persons. Similarly, a large number of persons were also injured due to the said attack, which were carried out by persons who were Muslims.

7. Immediately the CID commenced investigations.
8. The Petitioner states that the suicide bomber who exploded himself at the Cinnamon Grand Hotel, Ibrahim Inshaf Ahamed was a Director of Collossus Pvt. Limited and through the Industrial Development Board (hereinafter referred to as the IDB) scrap metal had been supplied to the said Company in the years 2017 and 2018. Based on this certain allegations were made concerning the employees of the IDB about this attack.
9. The Petitioner states that the IDB was one of the Institutions that came under the purview of the Ministry of Industry and Commerce and as the Petitioner was the Minister in charge of the said Ministry, allegations made against him by various persons.
10. Consequent thereto, the Secretary to the Ministry of Industry and Commerce, appointed a committee comprising of several high ranking officials of the Ministry to investigate the issuance and sale of scrap metal to industrialists during the period from 2017 to April 2019 and upon such investigation, the said committee submitted a comprehensive report to Parliament and to the Auditor General.

***The Petitioner annexes hereto a copy of the said Report marked as “P-1” and is pleaded as part and parcel of this Petition.***

11. The Petitioner states that in the said Report marked “P-1” it was observed that there was no irregularity in supplying scrap metal to Collossus Pvt. Limited during the relevant period.
12. On or about 22<sup>nd</sup> May 2019 a Parliamentary Select Committee was appointed to inquire into the events connected to the Easter Attacks and the said Committee also did not find any material incriminating the Petitioner.
13. During a Press Conference/Media Briefing held on 04.06.2019, the Police Spokesperson had requested the general public to prefer complaints against the Petitioner and former Governors M.L.A.M Hizbullah and AzathSalley.
14. Thereupon, the present Acting Inspector General of Police Mr. C. D. Wickremeratne (the 5<sup>th</sup> Respondent) had appointed a special committee

consisting of three senior police officers to investigate the alleged complaints. The special committee came to the finding that the Petitioner had not been involved in any manner whatsoever in the Easter Sunday terror attacks or any terrorist activity. This is evidenced by a letter dated 20. 06. 2019 signed by the Senior Deputy Inspector –General of the Criminal Investigation Department. The said letter was forwarded to the Secretary General of Parliament through the 5<sup>th</sup> Respondent Acting Inspector General of Police, which was subsequently tabled in Parliament and published in the final report of the Parliamentary Select Committee (“PSC”) on the Easter Sunday Suicide Attacks.

*A true copy of the relevant extract from the final PSC report tabled in Parliament is annexed hereto marked “P-1(a)” and plead the same as part hereof.*

15. The then President H.E. Maithreepala Sirisena appointed a Commission in terms of the Commissions of Inquiry Act No. 17 of 1948 as amended to inquire into the Easter Sunday Terrorist Attacks and the said commission too examined a number of witnesses pertaining to the incident.
16. On 08.07.2020 the CID requested the Petitioner to be present at the CID on 09<sup>th</sup> July 2020.
17. Accordingly, the Petitioner reported to the CID. He was interrogated for about 10 hours and a statement was recorded and he was permitted to go home. During the interrogation he was questioned about the supply of scrap metal to Colossus Pvt. Limited by the IDB in 2017 and 2018 and he explained that he was in no way involved in that entire process which was entirely within the day today business of the IDB.
18. The Petitioner further states that he was in no way connected to or concerned with or assisted in any manner whatsoever with the business activities of Colossus Pvt. Limited.
19. The Petitioner states that he was again requested to report to the CID and as the Petitioner was actively engaged in political activities in the Vanni District pertaining to the General Election which was to be held on 05<sup>th</sup> August 2020. The Petitioner met the officers of the CID at the Irattaperiyakulam Police Station on 27.07.2020. At the said police station the Petitioner was further interrogated by the CID Officers and another statement was recorded from him.

20. Thereafter too on a number of occasions the Petitioner was asked to report to the CID in connection with this investigation and on every such occasion he complied with the said orders and assisted in the investigation.
21. The Petitioner states that as such the Petitioner has cooperated in every possible manner with the investigations carried out by the CID into the Easter Sunday Bomb Attacks and there is no necessity to detain him in connection with the same matter.
22. The Petitioner states that his brother Bathiudeen Mohamed Riyaj was arrested on 14. 04. 2020 in connection with the Easter Attack and was detained under the Prevention of Terrorism (Temporary Provisions) Act No. 48 of 1979 and was extensively interrogated. As there was no material to connect him to the Easter attacks he was released from detention on 29.09.2020 by the Officers of the CID.
23. The said release of Bathiudeen Mohamed Riyaj created displeasure among the anti-Muslim forces who agitated that he as well as the Petitioner should be prosecuted in connection with the Easter Attacks. The Petitioner states that as there was no evidence against him or his brother the said requests were unreasonable and without any legal basis. The Petitioner states that at that stage too he feared that he would be arrested in violation of his Fundamental Rights guaranteed and protected under the Constitution. Accordingly the Petitioner filed a Fundamental Rights application bearing No. SC FR 224/2020 dated 15.07.2020 and moved inter alia for an interim order restraining the 1<sup>st</sup> to 5<sup>th</sup> Respondents from arresting the Petitioner in connection with the Easter Attacks. On 07.08.2020 Your Lordships Court refused to grant Leave to Proceed and accordingly the said application was dismissed.

*The Petitioner annexes hereto a copy of the Petition in the said SC FR application No. 224/2020 marked as "P-2" and it is pleaded as part and parcel of this Petition.*

#### **The unlawful arrest of the Petitioner**

24. The Petitioner states that he was residing at 410/16, Baudhdhaloka Mawatha, Colombo 07 with his wife and two of their children.
25. The Petitioner states that in the early morning of 24.04.2021 a large number of police officers led by Mr. G.D. Kumarasinghe the 1<sup>st</sup> Respondent came to his residence and arrested him. On being asked why he was being arrested the

Petitioner was informed by the officers of the CID that they have to question him regarding his alleged connection with the business activities of Colossus Pvt. Limited.

26. Before the arrest the Petitioner has tweeted stating that his brother Bathiudeen Mohamed Riyaj too has been arrested and the CID is attempting to arrest him without a charge.

*“The CID has been standing outside my house in Boudhaloka Mawatha since 1.30 am today attempting to arrest me without a charge. They have already arrested my brother. I have been in Parliament, and have cooperated with all lawful authorities until now. This is unjust.”*

***The screenshot of the said tweet of the Petitioner is annexed hereto marked as “P-3” and the same is pleaded as part and parcel hereof.***

27. The Petitioner in addition to the tweet has uploaded a video before the arrest where he *inter alia* states that he inquired from the CID as to whether they informed the Hon. Speaker of the Parliament relating to his arrest and/or whether they have any warrant to arrest him. Nevertheless, there was no response from them.

***The copy of the CD containing the said video of the Petitioner is annexed hereto marked as “P-4” and the same is pleaded as part and parcel hereof.***

28. The Petitioner’s wife was permitted to see him on 26.04.2021 at the CID and she was handed over a document termed a “Receipt of Arrest” dated 24.04.2021. The said document stated that the Petitioner was arrested for questioning regarding aiding to mobilize funding for terrorist activities and abetting in the conspiracy of the attack on 21.04.2021”.

***A copy of the said Receipt of Arrest is annexed hereto marked as “P-5” and is pleaded as part and parcel of this Petition.***

29. The Petitioner states that he never assisted to mobilize any funding for any terrorist activity nor was he in any way concerned in the said terrorist attack and therefore his arrest was unreasonable, mala-fide and illegal.

30. The Petitioner states that as he was a political leader of the Muslim Community he was singled out for hostile discrimination with a view to satisfying certain sections of the population and therefore his arrest was for a collateral purpose.
31. After his arrest the Petitioner was detained at the CID for three days purporting to be under Section 7(1) of the Prevention of Terrorism (Temporary Provisions) Act No. 48 of 1979. The Petitioner states that the said detention was contrary to law and illegal.
32. On 27.04.2021 the Petitioner's wife tried to complain about the violation of the fundamental rights of her husband to the Human Rights Commission but she was informed that due to the prevailing Covid 19 pandemic the Human Rights Commission does not personally accept complaints and to send the said complaint by Registered Post. Accordingly the Petitioner's wife on the same day sent the said complaint to the Human Rights Commission by Registered Post.

Subsequently on 12.05.2021 the Petitioner's wife received an acknowledgement from the Human Rights Commission dated 06.05.2021 acknowledging the receipt of the said complaint.

***A copy of the said complaint sent to the Human Rights Commission dated 27.04.2021 is annexed hereto marked as "P-6" and is pleaded as part and parcel of this Petition.***

***A copy of the said acknowledgement dated 06.05.2021 and a photocopy showing the envelope on which it was received are annexed hereto marked as "P-7" and "P-7a" respectively and are pleaded as part and parcel of this Petition.***

33. The Petitioner states that his arrest is unlawful in as much as;
  - a. There was no basis on which the 1<sup>st</sup> Respondent would have reasonably formed the opinion that the Petitioner had committed any offence;
  - b. The said arrest has been made mala fide and unreasonable;
  - c. The said arrest has been made for a collateral purpose mainly to victimize him.



## **The Unlawful Detention of the Petitioner**

34. Thereafter on 27.04.2021 the CID obtained a Detention Order from His Excellency the President as the Minister of Defence to detain the Petitioner for 90 days at the CID purporting to be under Section 9(1) of the Prevention of Terrorism (Temporary Provisions) Act No. 48 of 1979 as amended. The Petitioner is presently detained at the CID. The Petitioner reiterates that his detention is unreasonable, contrary to law, illegal and in violation of his Fundamental Rights guaranteed and protected under the Constitution.

*A copy of the said Detention order dated 27.04.2021 bearing No. MOD/LEG/PTA/51/2021 is annexed hereto marked as “P-8” and is pleaded as part and parcel of this Petition.*

35. The said detention order states as follows. “..... Abdul Rishad Badiutheen of No. 410/16, Baudhaloka Mawatha, Colombo 07 is connected with or concerned in unlawful activity to with: conspiring, aiding and abetting to the suicide bomb attack by Mohamed Ibrahim Inshaf Ahamed on 21.04.2019, engaging in activities detrimental to religious harmony among communities and knowingly concealed such information from the police”.

36. The Petitioner states that his detention is ex-facie illegal in as much as;

- a. The said purported detention order has not been made in terms of the law;
- b. There is no basis on which the Petitioner could be justifiably detained
- c. There is no material to reasonably believe or to suspect that the Petitioner is involved in any unlawful activity as alleged in the said detention order.
- d. The Petitioner apprehends that His Excellency would have been misled by officers of the 1<sup>st</sup> Respondent and/or the CID and/or others with respect to the Petitioner which resulted in his unlawful detention.

37. The Petitioner states that there is no rational object and/or purpose is served by keeping the Petitioner in detention.

38. The Petitioner categorically denies that the Petitioner,

- a) aided and abetted the suicide bomb attack carried out by Ibrahim Inshaf Ahamed on 21.04.2019
- b) was engaged in any activity detrimental to religious harmony among communities, and
- c) concealed any information related to above from the police.

The Petitioner verily believes that the investigation conducted by the CID pertaining to the Easter Attacks or the testimony of witnesses at the Parliamentary Select Committee and the Presidential Commission of Inquiry into the said Easter Attacks does not disclose any material / evidence incriminating and / or connecting the Petitioner in respect of the matters referred to in the aforesaid Detention Order.

- 39. The Petitioner states that no reason exist for the Minister of Defence or any other person to believe or suspect that the Petitioner is concerned with or connected with any unlawful activity as contemplated by Prevention of Terrorism (Temporary Provisions) Act No. 48 of 1979 and as such there is no material to justify the issuance of any detention order under the provisions of Prevention of Terrorism (Temporary Provisions) Act No. 48 of 1979. The Petitioner further states that he has not committed any act, which would constitute an offence or an unlawful activity under the provisions of the Prevention of Terrorism (Temporary Provisions) Act No. 48 of 1979, and or any other Law. Hence, in the circumstances the arrest and continued detention of the Petitioner by the Respondents, are a grave violation of his Fundamental Rights.
- 40. The Petitioner states that his arrest and detention is illegal, unlawful, contrary to law, mala-fide and done for a collateral purpose. The Petitioner further states that the law does not provide to arrest a person and thereafter look for evidence to prosecute him.

#### **Violation of the Petitioner's Fundamental Rights**

- 41. The Petitioner states that there was no reason to arrest him and that he was not arrested in accordance with the due procedures established by law and thereby the Respondents had unlawfully arrested the Petitioner in violation of the Petitioner's Fundamental Rights guaranteed and protected under articles 12(1), 12(2) and 13(1) of the Constitution of the Democratic Socialist Republic of Sri Lanka.

42. The Petitioner states that he is being illegally detained at the CID by the Respondents in violation of the Petitioner's Fundamental Rights guaranteed and protected under Article 13(2) of the Constitution of the Democratic Socialist Republic of Sri Lanka.
43. The Petitioner states that his Fundamental Rights guaranteed and protected under Articles 12(1), 12(2), 13(1) and 13(2) of the Constitution of the Democratic Socialist Republic of Sri Lanka have been violated by the Respondents.
44. The Petitioner states that his Fundamental Rights have been violated by the Respondents. The said actions by the Respondents would amount to Executive and / or Administrative action within the meaning of Article 126 of the Constitution of the Democratic Socialist Republic of Sri Lanka.
45. The Petitioner states that,
- a) He was arrested in a humiliating manner,
  - b) false and malicious allegations and defamatory statements were made against him in the media causing humiliation, defamation and pain of mind,
  - c) he was detained at the CID during the holy month of Ramadhan preventing him from effectively practicing his religion,
  - d) His daughter Ms. Amana Rishad was to sit for the London International General Certificate of Secondary Education (IGCSE) Examination on 26<sup>th</sup> April 2021. Due to the humiliating and illegal arrest and detention of the Petitioner she could not properly get ready for the said examination.
46. Therefore the Petitioner further states that grave loss and damage **have** been caused to the Petitioner and to the members of his family due to the violation of his Fundamental Rights by the Respondents and it is just and equitable that the Petitioner be awarded compensation in a sum of Rs. 5,000,000,000 as compensation in respect of the violations of his Fundamental Rights.
47. The Petitioner is suffering from acute hypertension, diabetes and numerous other illnesses.

***The Petitioner annexes hereto copies of the certificates issued by Dr. Uditha Bulugahapitiya, Consultant Endocrinologist, Dr. Neil Fernando and***

*Dr. Lee Chung Horn Consolidated and marked as “P-9” and are pleaded as part and parcel of this Petition.*

48. The Petitioner states that as he is extremely vulnerable to being affected by the fast spreading Covid 19 Pandemic in Sri Lanka and there is a grave threat to his life by being detained at the CID as he is exposed to other detainees and officers of the CID and therefore the Petitioner states that grave irreparable loss and damage would be caused to him unless interim relief is granted by Your Lordships Court.
49. If by inadvertence the Petitioner has been unable to file any documents necessary for the proper determination of this application he seeks the indulgence of Your Lordships Court to permit him to file the same in Your Lordships Court before this application is taken up for hearing.
50. The Petitioner has not invoked the jurisdiction of Your Lordships Court in respect of this matter prior to this.

**WHEREOF** the Petitioner prays that Your Lordships Court be pleased to:

- a. Grant leave to proceed with this application and issue notice on the Respondents in the first instance;
- b. In the alternative, to make an interim order as envisaged in Section 11 of the PTA restricting the Petitioner to his place of residence until the final determination of this application;
- c. Grant an interim order suspending and / or varying the operation of the purported detention order “**P8**” until the final determination of this application;
- d. Grant an interim order to release the Petitioner forthwith from the custody of the Criminal Investigations Department on such terms and conditions as Your Lordships think fit until the final determination of this application;
- e. In the alternative grant an interim order releasing the Petitioner from the custody of the CID on such terms and conditions which Your Lordships Court deem reasonable pending the final determination of this application and/or otherwise vary the said detention order;

- f. Declare that the Petitioner's Fundamental Rights guaranteed to him under Article 12(1) of the Constitution has been violated by the said Arbitrary and / or malicious arrest and detention;
- g. Declare that the Petitioner's Fundamental Rights guaranteed to him under Article 12(2) of the Constitution has been violated by the said Arbitrary and / or malicious arrest and detention;
- h. Declare that the Petitioner's Fundamental Rights guaranteed to him under Article 13(1) of the Constitution has been violated by the Arbitrary and / or malicious arrest and detention;
- i. Make order quashing and/or declaring that the detention order marked "P8" and/or the decision contained therein are unlawful and is null and void ab initio having no force or effect or law;
- j. Declare that the Petitioner's Fundamental Rights guaranteed to him under Article 13(2) of the Constitution has been violated by the Arbitrary and/or malicious arrest and detention;
- k. Direct the Respondents to pay compensation in a sum of Rs. 5,000,000,000 to the Petitioner in respect of the violation of his Fundamental Rights guaranteed and protected under articles 12(1), 12(2), 13(1) and 13(2) of the Constitution of the Democratic Socialist Republic of Sri Lanka;
- l. Grant costs and;
- m. Grant such other and further reliefs as to Your Lordships Court shall seem meet.

**Attorney at Law for the Petitioner**