

Abdul Azeez Bin Haji Idris

AND

Public Prosecutor

**(High Court of Brunei Darussalam)
(Criminal Appeal No. 22 Of 2025)**

Muhammed Faisal Bin PDJLD Kol(B) DSP Haji Kefli, J.C.

Date of Ruling: 29th November, 2025

Headnote - Criminal Procedure — Application for Leave to Travel Abroad Pending Appeal — Road Traffic Conviction — Change of Circumstances — Risk of Absconding — Appropriate Safeguards — Appeal Hearing Date Fixed — Leave Granted with Enhanced Bail Conditions

Mr Ahmad Zakaria Bin Haji Mohammed & Abdul Hakim Bin Ahmad Zakaria of Messrs Ahmad Zakaria & Associates for the Appellant.

PO Jordan Tian Tecck Chiun for the Public Prosecutor.

RULING

Muhammed Faisal, J.C.:

I Introduction

1. This is the defendant's application for leave to travel outside the jurisdiction to pursue a programme of study in Kuala Lumpur, Malaysia, pending the determination of his appeal against conviction and sentence in a road-traffic matter. The Prosecution objects. Having heard both parties on two occasions and having considered the materials placed before me, I delivered my oral ruling, with full written reasons reserved.
2. I now give my written reasonings.

II Background Facts and Procedural History

3. The relevant background can be briefly stated. The defendant was charged with a road-traffic offence in the Magistrates' Court which occurred in April 2022. He had previously been permitted to pursue his studies abroad between September 2022 and September 2024, after which the trial commenced in June 2025.
4. On 5 November 2025, the defendant was convicted and sentenced to nine (9) months' imprisonment, together with a lifetime disqualification from driving. A petition of

appeal was subsequently filed. Execution of the sentence is currently stayed pending the hearing of the appeal.

III Chronology

5. The sequence of events may be briefly described. The defendant had earlier been permitted by the Magistrates' Court to pursue his studies overseas from September 2022 until September 2024, after which he returned to Brunei for trial. The trial began in June 2025, and by October 2025 the proceedings had concluded, resulting in a conviction shortly thereafter. On 25 October 2025, approval for the defendant's entry into Malaysia was issued by the relevant immigration authorities.
6. Following his conviction, the defendant was sentenced on 5 November 2025 to nine months' imprisonment, with a lifetime disqualification from driving. His petition of appeal was filed promptly thereafter, resulting in a stay of execution pending the appeal.
7. The present application for leave to study overseas arose during the mention on 24 November 2025, when counsel informed the Court of the defendant's intention to commence a further programme of study in Kuala Lumpur on 15 December 2025. The matter was adjourned to 29 November 2025, at which both parties were fully heard on the application.
8. To provide clarity to the appellate process, the appeal was subsequently fixed for hearing on 25 April 2026, with the defendant being warned of his nonappearance on the hearing date.

IV The Defendant's Application

9. The defendant seeks permission to travel to Kuala Lumpur for the purpose of furthering his studies. His counsel confirms that arrangements with the university are largely in place, though dependent on his ability to be physically present for registration on 15 December 2025.
10. The defence submits that the defendant fully understands and accepts that he must return to Brunei for the appeal hearing and, in the event his appeal is dismissed, he will serve the sentence immediately.

V Submissions of the Prosecution

11. The Prosecution advances four principal objections:

i. Late Notice and Lack of Transparency

12. Although Malaysian immigration approval was granted on 25 October 2025, no notice was given to the Prosecution until the mention on 24 November 2025. This raises concerns regarding transparency and sincerity.

ii. Overlap With Appeal Hearing

13. The intended course runs for 12 to 18 months, and it is highly foreseeable that the appeal will be heard within that period. The defendant has not provided any enforceable mechanism ensuring his attendance either for the hearing itself or, if the appeal is dismissed, for immediate execution of the sentence.

iii. The Programme Can Be Deferred

14. The defendant had already been permitted to study abroad for two years previously. Nothing compelling shows why this new programme cannot await the conclusion of the criminal process. What cannot be deferred, the Prosecution argues, is the need for finality.

iv. Material Change of Circumstances

15. The defendant is now a convicted person, unlike in 2022–2023 when he was presumed innocent. His risk profile has therefore changed substantially. He now faces an actual custodial sentence. This constitutes a material and substantive change, making comparison to earlier permissions inappropriate.

16. For these reasons, the Prosecution urges the Court to dismiss the application.

VI Submissions of the Defence

17. In reply, the defence accepts that the defendant is now convicted, but submits that:

i. Minimal Risk of Absconding

18. A nine-month custodial sentence is insufficient incentive for him to become a fugitive. Given the cooperative enforcement relationship between Brunei and Malaysia, the risk of absconding is further reduced.

ii. Additional Safeguards Are Available

19. Counsel proposes stricter bail conditions, such as periodic reporting to the Brunei Embassy in Kuala Lumpur, or any other safeguards the Court considers appropriate.

iii. Uncertainty of Appeal Timeline

20. The defence states that they have not yet received the written judgment or the Notes of Proceedings from the Magistrates' Court despite requesting them shortly after sentencing. Without these documents, they cannot meaningfully estimate when the appeal will be ready for hearing.

iv. Educational Considerations

21. Counsel submits that the defendant and his family have carefully considered the proposed programme and view it as an important opportunity for his development. The defendant can suspend his studies should he be required to return to Brunei.

v. (e) Visa Approval Pre-Conviction

22. The Malaysian immigration approval was issued before the conviction, and counsel submits that this should not affect his eligibility to commence the course.

VII Issues for Determination

23. Two issues arise for determination:

- i. Whether, in light of the defendant's changed status as a convicted person, leave to travel abroad pending appeal ought to be granted; and
- ii. (b) If leave is to be granted, what conditions are necessary to ensure the defendant's attendance at the appeal and for execution of sentence.

VIII Court's Analysis

i. Change of Circumstances

24. I accept that the defendant's status as a convicted person is a material change. It adds weight to the Prosecution's concerns about flight risk and the need for finality.

ii. Risk of Absconding and Available Safeguards

25. However, having considered the full circumstances, I am satisfied that the risk is capable of being mitigated. The defendant has previously complied with all orders, the custodial sentence is relatively short, and Malaysia's proximity and mutual extradition laws¹ reduce the practical risk of absconding. Enhanced conditions can provide sufficient assurance.

iii. Timing of the Appeal

26. The uncertainty relating to the written grounds and Notes of Proceedings has made it difficult to predict when the appeal will be ready. To address this, the Court has fixed an early date for the appeal hearing, and the defendant is on clear notice of the obligation to return.

¹ Extradition (Malaysia and Singapore) Act CAP 154

Decision

27. Balancing all considerations, I am satisfied that the defendant may be permitted to pursue his studies abroad, subject to enhanced conditions. His bail is varied to be \$3,000 or in 2 local sureties.
28. Leave to travel overseas pending appeal is granted.

MUHAMMED FAISAL BIN PDJLD KOL(B) DSP HAJI KEFLI
Judicial Commissioner