

**Pg Md Aisamuddin bin Pg Hj Md Daud**

AND

**Public Prosecutor**

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**(High Court of Brunei Darussalam)  
(Criminal Trial No. 13 of 2025)**

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Haji Abdullah Soefri bin POKSM DSP Haji Abidin, JC.

**Date of Ruling: 28<sup>th</sup> January, 2026.**

*Criminal law – Bail Application – Application dismissed*

DPP Hajah Atiyyah Azzahra binti POKLSDSLJ Awang Haji Abas for the Public Prosecutor.  
Defendant In Person.

**Cases cited:**

*Awang Ahamad bin Awang Tengah v Public Prosecutor* [HCCA 29 of 2022]

*Sheikh Mahmud Safwan bin Sheikh Walid v Public Prosecutor* [HCCM 21 of 2021]

*Hj Sadikin bin Hj Ahmad v Public Prosecutor* [2000] JCBD 349

*Public Prosecutor v Mat Salleh bin Hj Aspar* [2008] JCBD 107

*Hurnam v The State (Mauritius)* [2005] UKPC 49

**RULING**

**Hj Abdullah Soefri, JC:**

**INTRODUCTION**

This is an application for bail by the Defendant who faces four charges under the Misuse of Drugs Act, Chapter 27.

The Defendant had previously applied for bail before Judicial Commissioner Muhammad Faisal bin PDJLD Kol (B) DSP Haji Kefli who dismissed the said application and he was remanded in prison pending trial. The Defendant is reapplying again for bail before me.

The alleged offence was committed on the 1<sup>st</sup> of January 2024 and the Defendant was preferred with 4 charges on 6<sup>th</sup> November 2025 in the Magistrate's Court. The case was remitted to the High Court on 24<sup>th</sup> December 2025 and was adjourned to 10<sup>th</sup> January 2026 for the documents to be submitted to the Defendant.

## **CHARGES**

The first charge is under Section 5 of the Misuse of Drugs Act, Chapter 27, and punishable under Section 29 read with the Second Schedule of the said Act whereby the penalty is a maximum of 30 years' imprisonment and 15 strokes of whipping and a minimum of 20 years' imprisonment and 15 strokes of whipping. The charge is as follows:

### **Amended 1<sup>st</sup> Charge**

That you, on 1<sup>st</sup> January 2024 at about 1917 hours, at Sungai Tujoh Control Post, Kuala Belait in Brunei Darussalam from Miri, Sarawak, Malaysia, not being a person authorised by the Misuse of Drugs Act, Chapter 27, or the Regulations made thereunder, did import a Class A controlled drug, to wit, **499.89 grams of CANNABIS**, in contravention of section 5 of the Misuse of Drugs Act, Chapter 27, and you have thereby committed an offence punishable under section 29 read with the Second Schedule of the said Act.

<b>Penalty under Section 5 of the Misuse of Drugs Act, Chapter 27</b>	
Not less than 330 grammes and not more than 500 grammes	Maximum 30 years and 15 strokes Minimum 20 years and 15 strokes
More than 500 grammes	Death

The second charge is under Section 6(a) of the Misuse of Drugs Act, Chapter 27 which carries a maximum imprisonment sentence of 10 years, \$20,000 fine or both. The charge is as follows:

### **Additional 2<sup>nd</sup> Charge**

That you, on 1<sup>st</sup> January 2024 at about 1917 hours, at Sungai Tujoh Control Post, Kuala Belait in Brunei Darussalam from Miri, Sarawak, Malaysia, not being a person authorised by the Misuse of Drugs Act, Chapter 27, or the Regulations made thereunder, did have in your possession a Class A controlled drug, to wit, **0.25 grams of METHYLENEDIOXYAMPHETAMINE (MDMA)**, in contravention of section 6(a) of the Misuse of Drugs Act, Chapter 27, and you have thereby committed an offence punishable under section 29 read with the Second Schedule of the said Act.

<b><u>Penalty under Section 6(a) of the Misuse of Drugs Act, Chapter 27</u></b>
Maximum 10 years' imprisonment, \$20,000 fine or both For second or subsequent offence, minimum 2 years

The third and fourth charges are for offences under Section 6(b) of the Misuse of Drugs Act, Chapter 27. Upon conviction, the Defendant is liable to imprisonment for a term which may extend to 10 years, or to a fine of \$20,000 or both. In the event of a second or subsequent offence, the Act prescribes a mandatory minimum sentence of 3 years' imprisonment. The charges are as follows:

**Additional 3<sup>rd</sup> Charge**

That you, on or about **1<sup>st</sup> January 2024**, in Brunei Darussalam, not being a person authorised by the Misuse of Drugs Act, Chapter 27, or the regulations made thereunder, did consume a Class A controlled drug, to wit, **METHYLAMPHETAMINE**, in contravention of section 6(b) of the Misuse of Drugs Act, Chapter 27 and you have thereby committed an offence punishable under Section 29 read with the Second Schedule of the said Act.

**Penalty under Section 6(b) of the Misuse of Drugs Act, Chapter 27**

Imprisonment for a term which may extend to 10 years, \$20,000 or both.  
For second or subsequent offence, minimum 3 years' imprisonment.

**Additional 4<sup>th</sup> Charge**

That you, on or about **1<sup>st</sup> January 2024**, in Brunei Darussalam, not being a person authorised by the Misuse of Drugs Act, Chapter 27, or the regulations made thereunder, did consume a Class A controlled drug, to wit, **METHYLENEDIOXYAMPHETAMINE (MDMA)**, in contravention of section 6(b) of the Misuse of Drugs Act, Chapter 27 and you have thereby committed an offence punishable under Section 29 read with the Second Schedule of the said Act.

**Penalty under Section 6(b) of the Misuse of Drugs Act, Chapter 27**

Imprisonment for a term which may extend to 10 years, \$20,000 or both.  
For second or subsequent offence, minimum 3 years' imprisonment.

**Grounds of Application**

The Defendant gave grounds for granting bail as follows:

- a) The Defendant has been remanded at Maraburong Prison for almost two (2) years. Since his charge has been amended which is now reduced to a maximum of 30 years' imprisonment and a minimum of 20 years' imprisonment.
- b) The Defendant wanted to engage a legal counsel and to seek assistance from his children to engage a legal representative for him.
- c) The Defendant has recently been served with divorce proceeding papers by his wife, who is no longer able to assist him in engaging a counsel.
- d) The Defendant submits that he would not interfere with witnesses, asserting that he is not a criminal and seeks bail solely to handle personal matters outside, including the welfare of his children and arrangements for his children's schooling.

- e) The Defendant referred to *Awang Ahamad bin Awang Tengah v Public Prosecutor [HCCA 29 of 2022]*, where the accused was charged under the Misuse of Drugs Act, involving 531 grams of *Syabu* and facing the death penalty and was granted bail. In that case, the accused was arrested on 24<sup>th</sup> July 2022 and remanded in jail on 9<sup>th</sup> August 2022 and the defendant was released on bail on 8<sup>th</sup> December 2022 up until now.

### **Prosecution's Submission**

The Prosecution objected to the application on the following grounds:

#### **1) Gravity of offence**

The Defendant is facing 4 charges under the Misuse of Drugs Act. The present case is a serious case as reflected in the penalty which carries 30 years' imprisonment. Even though the Defendant is not facing the death penalty, 30 years' imprisonment is equally serious.

As noted in *Sheikh Mahmud Safwan bin Sheikh Walid v Public Prosecutor [HCCM 21 of 2021]*, the severity of the offence is a critical factor in deciding bail.

#### **2) Risk of absconding**

The Prosecution submitted the gravity of the offence making it a high risk for the Defendant to abscond. Despite the Defendant being a local with family obligations, now that he is aware and is formally charged and finalized with a serious charge, there is a risk that he might abscond.

#### **3) Strength of Prosecution's case**

The Prosecution submitted that they have a strong case against the Defendant, which includes the finding of drugs under the steering wheel of the car that the Defendant was driving and messages that have been retrieved.

#### **4) Risk of tampering with witnesses or evidence**

The Prosecution submits that the Defendant was arrested with three other individuals. If the Defendant is released on bail, there is a risk that he might interfere and tamper with the three other potential Prosecution witnesses.

### **The Law**

The question that this Court needs to look into is whether the reasons given by the Defendant are sufficient for this Court to grant him bail. In deciding whether to grant or refuse bail, I refer to the principles expounded in *Hj Sadikin Bin Hj Ahmad v Public Prosecutor [2000] JCBD 349* and

***Public Prosecutor v Mat Salleh Bin Hj Aspar* [2008] JCBD 107.** I think it is worthwhile to refer once again to what Lord Bingham of Cornhill said in ***Hurnam v The State (Mauritius)* [2005] UKPC 49** (cited in the *Mat Salleh bin Hj Aspar's* case) about the competing interests which the court must consider in bail applications:

*“The interest of the individual is of course to remain at liberty, unless or until he is convicted of a crime sufficiently serious to justify depriving him of his liberty. Any loss of liberty before that time, particularly if he is acquitted or never tried, will inevitably prejudice him and, in many cases, his livelihood and family. But the community has a countervailing interest in seeking to ensure that the course of justice is not thwarted by the flight of the suspect or defendant or perverted by his interference with witnesses or evidence, and that he does not take advantage of the inevitable delay before trial to commit further offences.”*

Having assessed all submissions presented before this court, I am satisfied that the offence which the Defendant is facing is a very grave offence which carries a maximum of 30 years' imprisonment and 15 strokes and a minimum of 20 years' imprisonment and 15 strokes where the drugs in question weighs 499.89 grams. There is a risk of interference and tempering with the witnesses of this case if the Applicant is released on bail and one of the three individuals is the Defendant's wife who has filed a petition for divorce. The Prosecution has demonstrated that it has a strong case against the Defendant.

I do not find any new circumstance that the Defendant has raised except that the charge that he is facing no longer carries a mandatory death penalty. Nevertheless, the existing charge carries a maximum of 30 years' imprisonment and 15 strokes of whipping and a minimum of 20 years' imprisonment and 15 strokes which is a serious charge and I would like to reiterate the factors that the Court needs to consider whether to grant bail or refuse bail in the case that I have highlighted above [in ***Hj Sadikin Bin Hj Ahmad v Public Prosecutor* [2000]1 JCBD 349**] where Roberts, C.J which amongst others laid out the factors as follows;

- 1. The gravity of the offence, as is best shown by the maximum penalty which can be imposed for it ....*
- 2. The likelihood that the defendant may attempt to interfere with witnesses for the Prosecution*
- 3. If this is available, the strength of the Prosecution's case”*

The Defendant remains at liberty to consult with his children for the purpose of securing legal representation. However, I am satisfied that being in Prison, the Defendant still has opportunity to seek legal counsel, if required.

For the reasons given above, I therefore dismiss the bail application and remand the Defendant until the case has been concluded.

**HAJI ABDULLAH SOEFRI BIN POKSM DSP HAJI ABIDIN**  
Judicial Commissioner