

Fazri Bin Ibrahim

AND

Public Prosecutor

**(High Court of Brunei Darussalam)
(Criminal Motion No. 5 of 2025)**

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

Date of Ruling: 9th April 2025

Headnote: Bail – leave to appeal against Magistrate decision in denying bail

Appellant In Person.

PO Syazwani Jumat and PO Atikah for the Public Prosecutor.

Statutes:

Section 379 of the Penal Code

Section 427 of the Penal Code

Section 426 of the Penal Code

Section 272(1) of the Criminal Procedure Code

Section 278 of the Criminal Procedure Code

RULING

Muhammed Faisal, J.C.:

Introduction and Background Facts

1. The Applicant, Fazri bin Ibrahim, is currently facing trial in the Magistrate’s Court for a total of six charges—three for theft under section 379 of the Penal Code, two for mischief under section 427, and one for mischief with intent to cause loss under section 426. He entered pleas of not guilty to all charges on 23 November 2024.
2. On the same day, he applied for court bail, which the Magistrate denied. The basis for refusal was the Respondent’s objection, citing the Applicant’s lengthy criminal record, the seriousness of the offences, and a high risk of reoffending or absconding.
3. The Applicant has since been in remand, and his trial is scheduled to commence in July 2025. On 10 February 2025, a Notice of Appeal against the Magistrate’s bail decision was filed on his behalf by his wife, Fatimah binti Haji Abdullah.

4. In the Notice, now forming the grounds of appeal, the Appellant's wife pleads for bail on humanitarian grounds. She explains that the Applicant was the primary caregiver for their 13 children, four of whom are still young. She works during the day, and since his detention, has been struggling to care for the children alone.

Grounds and Arguments for the Appeal

5. The essence of the appeal is that the continued detention of the Applicant is causing considerable hardship to his family. His wife states that the delay until the trial in July is prolonged, and in the interim, she is left to juggle work and childcare responsibilities. The Applicant also made oral submissions at the High Court reiterating these points, expressing his desire to assist his wife, resume his mechanical work, and prepare his defence and identify witnesses.
6. The Applicant further claimed that his recorded statement—which forms part of the prosecution's case—was made under duress, alleging that he was threatened by CID officers. He contends that his continued detention would impair his ability to challenge the prosecution's evidence effectively.

Respondent's Objections

7. The Respondent strongly opposed the appeal on both procedural and substantive grounds.
8. First, the appeal was filed out of time, almost three months after the Magistrate's ruling. Under section 272(1) of the Criminal Procedure Code, an appeal must be lodged within 14 days. No application for an extension of time was made under section 278, nor was any explanation for the delay offered. On this ground alone, the appeal is procedurally defective.
9. Second, the Respondent argues that even if the delay were overlooked, the merits of the application are weak. The prosecution's case is supported by the Applicant's own admission to all six charges, and the tools used to commit the offences were found in his possession. The strength of the case heightens the risk of absconding.
10. More significantly, the Applicant has a long-standing history of similar offences dating back to 2012, with major convictions in 2014 (60 months' imprisonment) and 2023 (16 months' imprisonment). The current charges were laid in November 2024, barely five months after his release. This pattern of offending demonstrates a high propensity to reoffend, and a lack of rehabilitation.
11. The Respondent also pointed out that the Applicant had relied on the same personal circumstances before the Magistrate—namely, the needs of his family—and that there has been no material change in circumstances since.

Court's Assessment and Decision

12. The Court notes that appeals must be filed promptly, and that where they are filed out of time, the reasons for the delay and the likelihood of success must be considered. In this case, no justification for the delay was offered, and no formal application was made to extend time.
13. On the substance of the appeal, while the Court does not take lightly the personal hardship caused to the Applicant's family, it remains the case that bail is not to be granted solely for compassionate reasons. The relevant considerations include the gravity of the offence, the risk of reoffending, the risk of absconding, and the strength of the prosecution's case—all of which weigh heavily against the Applicant.
14. The Applicant's prior convictions, the proximity in time between his last release and the new charges, and the admitted possession of burglary tools collectively suggest that he presents a substantial risk to public safety if released. The Court also notes that the Applicant's statement, though challenged, is not a Notice of Warning statement, and the issue of admissibility can be properly tested at trial.
15. For these reasons, and in agreement with the grounds submitted by the Respondent, the Court finds no basis to interfere with the Magistrate's decision.

Conclusion

16. The application for leave appeal is dismissed. The Applicant shall remain in custody pending trial.

Ordered accordingly.

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