

Yasir bin Yahya

AND

Public Prosecutor

**(Court of Appeal of Brunei Darussalam)
(Criminal Motion No. 19 of 2025)**

Before: Steven Chong, C.J.; Lunn and Sir Nicholas Blake, JJA.

Date of Hearing: 11th June, 2026

Date of Judgment: 30th June, 2026

Headnote: Criminal law – House trespass with intent to commit theft – Multiple offences – Whether individual sentences appropriate – Individual sentences within established sentencing range – Offender of previous good character – Plea of guilty at first reasonable opportunity – Whether aggregate sentence manifestly excessive – Totality principle – Application for extension of time to appeal granted – Appeal allowed.

Appellant in Person.

DPP Emily Goh and DPP Mohammad Syafi'e Habibuallah @ Edi Syafi'e bin Edi Mirhan for Respondent.

Cases cited:

Mohd Zahiruddin bin Hj Junaidi v Public Prosecutor [Criminal Motion No.38 of 2013]

Ahmadi bin Hj Nawli v Public Prosecutor [Criminal Motion No.1 of 2015]

Steven Chong, C.J.:

Introduction

1. On 6th February 2025, in the Intermediate Court, the applicant - identified in the charges as D3- was jointly charged with two co-accused, D1 and D2, on four counts of house trespass with intent to commit theft, contrary to section 451 of the Penal Code. Specifically, the applicant was named in the 1st Charge together with D2, in the 2nd Charge together with D2, and in the 3rd Charge together with D1 and D2. The 4th Charge concerned only D1 and D2 and is not material for present purposes.
2. The applicant pleaded guilty to the three charges brought against him. The Judge imposed a global sentence of 4 years' imprisonment. The present application concerns the applicant's request for an extension of time to appeal against that sentence.
3. For convenience and ease of reference, the applicant will hereafter be referred to as D3, and his co-accused as D1 and D2, in the facts set out below.

Facts relating to the 1st Charge

4. On 9th October 2024 at about 12:45 hours, the complainant, Siti Norazura, attended at her late grandfather's house at Kampong Seri Tanjong Belayun in Temburong. She observed that the back door of the house was open. Upon entering and inspecting the premises, she discovered that a number of items were missing. She subsequently lodged a police report.
5. The items reported missing were: one Sharp television set; one coffee maker; seven Shimano fishing rods; one cool box; and one children's bicycle.
6. Siti Norazura stated that the house had been left unattended since 2nd October 2024, when her sister last visited and confirmed that it remained in its original condition.
7. Police investigations subsequently revealed the involvement of D2 and D3. On a morning in October 2024, after completing his duties as a school bus driver in dropping off students, D2 met D3 at Kampong Menengah. The two decided to go out in search of food and proceeded to use the school bus driven by D2.
8. While travelling, they noticed the house in question with its lights still on during the morning hours. Suspecting that the house was unoccupied, D2 drove the school bus into the compound. Both accused alighted and made their way to the rear of the house. D3 acted as a lookout while D2 forced entry by kicking open the back door. They then entered the house and removed the aforementioned items.
9. The stolen items were carried to the school bus, after which D2 and D3 left the premises. It was their intention to sell the items. However, according to D3, the items were subsequently discarded as they had been damaged. The cool box was recovered by the police following investigations and identified by Siti Norazura as belonging to the house.

Facts relating to the 2nd Charge

10. On 6th November 2024 at about 08:30 hours, the complainant, Tony, attended at his house at Kampong Sibatang in Temburong. Upon arrival, he observed shards of glass on the floor of the living room and discovered that the rear sliding door of the house had been damaged. Upon further inspection, he found that several items were missing, namely, five carpets, one vacuum cleaner, and one aluminium ladder. A police report was lodged on the same day.
11. Tony stated that the house had been left unoccupied since 2009, following his relocation to Kampong Lambak Kanan. Notwithstanding this, he continued to visit the premises approximately twice a month. His last visit prior to the incident was in October 2024, at which time he observed that the house remained substantially unchanged.
12. Police investigations revealed the involvement of D2 and D3 during the period between 1st October 2024 and 5th November 2024. On an occasion within that period D2, driving a school bus, collected D3 and proceeded to the said house. They gained entry through the damaged rear sliding door, and once inside, removed the items identified above.
13. The stolen items were loaded into the school bus, and D2 and D3 departed the premises. In the course of investigations, both admitted that four of the carpets were sold via Facebook

at \$40.00 each, with the proceeds being shared between them. They further admitted that the aluminium ladder was sold for \$40.00, the proceeds of which were retained by D3 for his personal use. The vacuum cleaner was discarded as it was not in working condition.

14. Police subsequently recovered one carpet from D3's residence, which was positively identified by Tony.

Facts relating to the 3rd Charge

15. Sometime in the morning of October 2024, D1 accompanied D2, who was then driving a school bus, to transport students from Bangar Camp to a secondary school in Kampong Batu Apoi, Temburong. Thereafter, they proceeded to Kampong Menengah to pick up D3. D2 subsequently drove the trio to the vicinity of a house in Kampong Bekarut belonging to the complainant, Hajah Rapih. Upon arrival, D2 observed that the lights of the house were still switched on and, suspecting that the house was unoccupied, he drove the school bus closer and parked it nearby.
16. All three accused then made their way to the rear of the house. D1 repeatedly struck the back door until it became loosened, whereupon D2 succeeded in opening it. During this time, D3 acted as a lookout. Once entry was gained, all three accused persons entered the house and removed various items, namely, three gas cylinders, one gold ring, thirteen machete blades, one LG television set, and one torchlight. These items were carried to the school bus, and the accused persons thereafter left the premises.
17. On the afternoon of 17th November 2024, the complainant returned to the house and discovered that it had been ransacked and that the aforementioned items were missing. She subsequently lodged a police report. The complainant stated that she had vacated the house on 26th October 2024 to stay at her children's residence in Kampong Sungai Akar in order to care for her grandchildren.
18. Police investigations established the involvement of all three accused persons. In the course of investigations, D3 admitted to having sold the three gas cylinders, the LG television set, and three of the machete blades, for a total sum of \$280.00. The torchlight was later recovered from D2's residence and was identified by the complainant as her property.

The sentence

19. In determining the appropriate sentence, the Judge was guided by the relevant authorities concerning house trespass with intent to commit theft, including *Mohd Zahiruddin bin Hj Junaidi v Public Prosecutor* [Criminal Motion No.38 of 2013], in which this Court observed that the sentencing benchmark for offences of this nature is 3 years' imprisonment, subject to a reduction to 2 years where the offender pleads guilty. Adopting that approach, the Judge selected a starting point of 3 years' imprisonment and reduced the sentence to 2 years' imprisonment on each of the three charges to which the applicant pleaded guilty.
20. Having regard to the principle of totality, the Judge directed that one year of the sentences imposed on the 2nd and 4th Charges run consecutively to the sentence imposed on the 1st Charge, resulting in an aggregate sentence of 4 years' imprisonment.

21. We note that the Judge referred to the 4th Charge when explaining the consecutive sentencing order. This was plainly a slip, as the applicant was convicted only on the 1st, 2nd and 3rd Charges and not on the 4th Charge. However, nothing turns on this error. It is clear from the context and the aggregate sentence imposed that the Judge intended to order portions of the sentences on the 2nd and 3rd Charges to run consecutively to the sentence on the 1st Charge, thereby arriving at the total sentence of 4 years' imprisonment.

The appeal

22. The applicant, who was 42 years of age at the time of the offences and has no previous convictions, seeks a reduction of his sentence principally on the basis of his personal and family circumstances. He submits that he is responsible for the maintenance of his wife and four children, two of whom are of school-going age. Following his incarceration, his wife was compelled to seek employment in order to support the family. He further states that his mother is in poor health and his father suffers from a heart condition. The applicant also expresses remorse for his offending conduct.
23. For the respondent, the Deputy Public Prosecutor ("DPP") drew our attention to several decisions of this Court concerning offenders convicted of multiple offences of house trespass with intent to commit theft, including *Ahmadi bin Hj Nawi v Public Prosecutor* [Criminal Motion No.1 of 2015]. Having regard to those authorities and all the circumstances of the present case, including the applicant's previous good character, the DPP acknowledged that the aggregate sentence of 4 years' imprisonment imposed on the applicant, despite his conviction for three offences of house trespass with intent to commit theft, was towards the "higher end" of the established sentencing range. Accordingly, the DPP accepted that an aggregate sentence in the region of 3 to 3 ½ years' imprisonment would adequately reflect the gravity of the offending in the present case.

Decision

24. We acknowledge the applicant's difficult family circumstances. However, while those circumstances evoke sympathy, they are not so exceptional as to justify a reduction in sentence. We are satisfied that the individual sentences imposed on each charge were appropriate and fell within the established sentencing range for offences of this nature.
25. The central question is whether the aggregate sentence of 4 years' imprisonment is manifestly excessive. Having carefully considered all the circumstances, we are persuaded that it is. In reaching this conclusion, we have taken into account the applicant's previous good character and his plea of guilty at the first reasonable opportunity. We have also borne in mind that the applicant committed three offences against separate victims on different occasions over a period of approximately one month. This is a significant aggravating factor which requires the sentence to reflect the cumulative criminality of the offending conduct and to accord with the principle of totality.
26. Balancing all the relevant considerations, we agree with the DPP that an aggregate sentence of 3 years' imprisonment appropriately reflects the overall criminality of the applicant's conduct while serving the objectives of punishment and deterrence in the public interest. In

our judgment, this is best achieved by ordering 6 months of the sentence imposed on each of the 2nd and 3rd Charges to run consecutively with the sentence of 2 years' imprisonment imposed on the 1st Charge, with the remaining portions of the sentences to run concurrently.

Conclusion

27. For the foregoing reasons, we grant the application for an extension of time and treat it as a substantive appeal against sentence. The appeal is allowed. The aggregate sentence of 4 years' imprisonment is set aside and substituted with an aggregate sentence of 3 years' imprisonment.
28. Before concluding, we wish to record our appreciation to the DPP for her assistance to the Court. Her submissions on sentence were measured, balanced and fair, particularly in circumstances where the applicant appeared in person and was unrepresented.



DATO SERI PADUKA STEVEN CHONG, C.J.



LUNN, J.A.



SIR NICHOLAS BLAKE, J.A.