

Mohamd Gani Bin Mohamad

AND

Public Prosecutor

**(High Court of Brunei Darussalam)
(Criminal Appeal No. 20 of 2018)**

Steven Chong, C.J.
6 September 2018

Possession of 12.74 gs of Cannabis – Appropriate sentence.

Hj Mohammad Rozaiman Bin Dato Haji Abdul Rahman (M/S Rozaiman Abdul Rahman) for the Appellant.

DPP Hjh Farhanah Binti POKPSR DPSS Haji Awg Suhaili for the Public Prosecutor.

Cases cited:

Mohamad Azren Bin Zaini v Public Prosecutor [Criminal Appeal No. 49 of 2014]

Public Prosecutor v Mas Wira Bin Mohd Jawi and another [Criminal Trial No. 14 of 2013]

Public Prosecutor v Mohammad Sukerni Al’Fiant Bin Hj A.Abdullah [Revision No.2 of 2015].

Public Prosecutor v Jeffrey Tang Siew Hock [HCCT No.28 of 2010]

Steven Chong, C.J.:

In the Magistrate’s Court before Magistrate Dewi Norlelawati Binti Haji Abdul Hamid the appellant faced two charges under the Misuse of Drugs Act: import of cannabis contrary to section 5 (main charge); and possession of the same cannabis contrary to section 6(a) (alternative charge).

Upon the appellant pleading guilty to the alternative charge the Magistrate imposed a fine of \$4,000 or 7 months’ imprisonment in default of payment.

Shortly stated the facts were that on the morning of 15 February 2016 narcotics officers, who were carrying out random inspection of vehicles entering the Sungai Tujoh Control Post from Miri, stopped the appellant when he arrived on a Ducati motorcycle. A search of a pocket of

the appellant's overall by the narcotics officers yielded a plastic packet containing 12.74 gs of cannabis.

The appellant admitted to the narcotics officers that his friend named "Ejam" in Miri had asked him to deliver the cannabis to someone by the name of "Yen" in Lumut.

Counsel for the appellant submits that the fine imposed is manifestly excessive and he finds support in the following cases involving drug possession in which fines of between \$1,200 to \$2,000 were imposed: *Mohamad Azren Bin Zaini v Public Prosecutor* [Criminal Appeal No. 49 of 2014]; *Public Prosecutor v Mas Wira Bin Mohd Jawi and another* [Criminal Trial No. 14 of 2013]; and *Public Prosecutor v Mohammad Sukerni Al'Fiant Bin Hj A.Abdullah* [Revision No.2 of 2015].

However, the three cases cited above, concern the possession of methylamphetamine and therefore are not directly relevant to the present case which involves the possession of cannabis.

A case involving the possession of cannabis (13.666 gs) is *Public Prosecutor v Jeffrey Tang Siew Hock* [HCCT No.28 of 2010] in which a fine of \$4,000 was imposed on the defendant's guilty plea.

Considering the possession of more than 15 gs of cannabis triggers the presumption of trafficking under section 15 of the Misuse of Drugs Act and the quantity of cannabis found in the appellant's possession is close to this threshold, the fine of \$4,000 can hardly be said to be excessive, still less, manifestly so.

For this reason the appeal is dismissed.

DATO PADUKA STEVEN CHONG
Chief Justice