

Public Prosecutor

AND

Mohammad Nazri bin Mohd Nordin

**(Intermediate Court of Brunei Darussalam)
(Criminal Trial No. 50 of 2025)**

Pg Hj Norismayanti binti Pg Hj Ismail, Judge

Date of Sentence: 1st July 2026

Headnote: Criminal Law – Sentencing – 2 charges under s.457 of the Penal Code, Cap 22 – Housebreaking at night with intention to commit theft – 1 charge under section 379 of the Penal Code – theft of a vehicle – sentence to reflect the seriousness of the offence and to protect the public – pleas of guilty – previous convictions – deterrent sentence.

DPP Abdul Musawwir Bin Haji Awang Mahli for Public Prosecutor.

Defendant In Person and Unrepresented.

Cases cited:

Public Prosecutor v Hassan bin Hj Tahir [HCCT No. 5 of 2022]

Daud bin Hj Zainal v Public Prosecutor (Criminal Appeal No. 11 of 2004)

Ilham Syarif v Public Prosecutor (Criminal Appeal No. 3 of 2009)

Md Ihsan bin Haji Awang Saini v Public Prosecutor (Criminal Appeal No. 12 of 2013)

PP v Rosman bin Abdullah Nyambong (Criminal Appeal No.16 of 2021)

Public Prosecutor v Pengiran Abdul Azim bin Pengiran Abd Azis (ICCT/47/2023)

Norfazil bin Tamit v Public Prosecutor (Criminal Appeal No. 129 of 2002)

Public Prosecutor v Pg Abdul Rahman bin Pg Shahbudin (Criminal Appeal No. 145 of 2002)

S E N T E N C I N G

Pg Hj Norismayanti, Judge:

Introduction

1. Mohammad Nazri bin Mohd Nordin (**the Defendant**), a 38-year-old male, was charged before this Court with three offences — two counts of house-breaking by night under Section 457 of the Penal Code, Chapter 22, and one count of theft under Section 379 of the Penal Code, Chapter 22. A fourth charge under Section 454 of the Penal Code was subsequently withdrawn by the Prosecution upon the Defendant's conviction on the remaining three charges.

Charges

2. The charges are as laid out below:

1st Charge:

“That you, on the night of 18th September 2025, at an apartment located at No. 2-26, Level 2, Midvalley Shopping Centre, Simpang 58, Jalan Masjid Salambigar, Kampong Sungai Orok, in Brunei Darussalam, did commit house-breaking by night, by entering into the said apartment, in the possession of Muhammad Ajinor Alim bin Haji Awang Jaya, a building used as a human dwelling, after the hour of sunset and before the hour of sunrise, in order to commit an offence punishable with imprisonment, to wit, theft, and you have thereby committed an offence punishable under Section 457 of the Penal Code, Chapter 22.”

2nd Charge:

“That you, on 29th September 2025, at about 2300 hours, at a house located at No. 9, Simpang 116-13-14, Kampong Madang, Jalan Utama Berakas, in Brunei Darussalam, did commit house-breaking by night, by entering into the said house, in the possession of one Nur Afiqah Melissa binti Abdullah, a building used as a human dwelling, after the hour of sunset and before the hour of sunrise, in order to commit an offence punishable with imprisonment, to wit, theft, and you have thereby committed an offence punishable under Section 457 of the Penal Code, Chapter 22.”

Penalty under Section 457 of the Penal Code, Chapter 22 is imprisonment for a term which may extend to 5 years and with whipping, and if the offence intended to be committed is theft, the term of imprisonment may extend to 15 years.

3rd Charge:

“That you, on 29th September 2025, at about 2300 hours, at the vicinity of No. 9, Simpang 116-13-14, Kampong Madang, Jalan Utama Berakas, in Brunei Darussalam, did commit theft of property, to wit, one (1) Kia Seltos bearing registration BF 299 belonging to one Nur Afiqah Melissa binti Abdullah, and you have thereby committed an offence punishable under Section 379 of the Penal Code, Chapter 22.”

Penalty under Section 379 of the Penal Code, Chapter 22 is imprisonment for a term not exceeding 3 years, fine or both.

3. On 24th June 2026, the Defendant pleaded guilty to all three charges. The charges were read and explained to him in Malay, and he confirmed that he understood and agreed to the Statement of Facts ("SOF"). He also acknowledged the accuracy of his record of previous convictions. An amendment was made to the first paragraph of the SOF to reflect that the Defendant was employed as a bus driver at the material time, to which he agreed. The Court accordingly convicted the Defendant on all three charges.
4. Having heard the Prosecution's submissions on sentence and the Defendant's personal mitigation, the Court now sets out its grounds of sentence.

Statement of facts

5. The Defendant was working as a bus driver at the material time. He is not without family responsibilities — he has a mother who is dependent on him. Despite this, within the span of less than a month, the Defendant committed a series of property offences targeting private homes in Brunei Darussalam.

Facts on the 1st charge

6. In the early hours of 19th September 2025, the Property Supervisor of Midvalley Shopping Centre, Muhammad Ajinor Alim bin Haji Awang Jaya ("the first Complainant"), was informed by a staff member that someone had broken into an apartment at No. 2-26, Level 2, of the said shopping centre, and that a Matrix television had gone missing. The first Complainant directed the security team to review the CCTV footage from the previous night.
7. The footage revealed that on the night of 18th September 2025, an unknown male had arrived at the basement of Midvalley Shopping Centre in a white school van bearing registration number BR4786. He made his way to the second floor via the emergency stairs which required an access card and proceeded to the said apartment. After looking through the window and confirming that no one was inside, he entered the apartment through the window and removed a Matrix television before leaving. The first Complainant lodged a police report at Berakas Police Station that same day.
8. Police investigations subsequently revealed that the man captured on CCTV was the Defendant. He admitted to breaking into the apartment in the manner described, and was identified from the CCTV footage. He further admitted to selling the stolen television to an acquaintance known as Nuriyah for BND70. The television was later recovered from her and identified by the first Complainant. The stolen television is valued at BND299.

Facts on the 2nd charge

9. On the evening of 29th September 2025, the Defendant was walking in the vicinity of Madang First Emporium. He spotted a house at No. 9, Simpang 116-13-14, Kampong Madang, Jalan Utama Berakas, and decided to wait until the occupants had retired to their bedrooms. At around 2300 hours, he entered the compound by jumping over the back gate. Once inside, he unlocked and opened the back gate to create an escape route, then broke into the house by climbing in through the back window.
10. Inside the house, he took two bags that were left on a table. On his way out through the sliding entrance, he checked the bags and found BND7 and AUD15 inside. He took the money and discarded the bags on the balcony. He then re-entered the house and stole the Kia Seltos car key, an Audi car key, a Mercedes car key, and a front gate remote control from their original places.
11. The second complainant, Nur Afiqah Melissa binti Abdullah, was woken up around midnight by her son, who informed her that their Kia Seltos bearing registration BF299, which had been parked in the vicinity of the house, was missing. Upon checking the house, they found the sliding entrance wide open and discovered that various items were missing. A police report was lodged at Berakas Police Station that same day.

12. Upon further police investigations, the Defendant admitted to breaking into the said house and stealing the car keys and front gate remote control. He also admitted to disposing of the Mercedes car key by throwing it into a river in the Menglait area, and to converting the AUD15 into Brunei Dollars for his personal use together with the BND7. The Kia Seltos car key, Audi car key, and front gate remote control were subsequently recovered from the Defendant. The second Complainant suffered a loss of BND2,000 to replace the stolen and unrecovered Mercedes car key.

Prosecution's Submissions on Sentence

13. The Prosecution submitted that the aggravating factors in this case are significant and warrant a high starting point. The Prosecution highlighted the following: the seriousness and prevalence of house-breaking offences; the Defendant's premeditated and persistent conduct over multiple incidents; the short time span within which the offences were committed; the high value and variety of the stolen property; the use of the stolen vehicle to facilitate further offending; and the Defendant's extensive record of previous convictions.
14. The Prosecution submitted the following starting points: for the 1st and 2nd charges under Section 457: 6 years' imprisonment and 3 strokes of the whip each; for the 3rd charge under Section 379: 2 years' imprisonment. The Prosecution further submitted that the sentences should run consecutively, at least in part, to reflect the multiplicity of offences committed in close proximity in time. It was also noted that the Defendant has been on remand since 2nd October 2025.

Defendant's Mitigation

15. in his mitigation, the Defendant asked the Court for a one-third reduction in sentence, for all sentences to run concurrently, and for the sentence to be backdated to the date of his remand.
16. The Defendant disclosed that he has a dependent mother. He was working as a bus driver at the material time, but acknowledged that his earnings were insufficient. When asked by the Court whether that gave him justification to commit the offences, he accepted that it did not. He expressed remorse and promised that this would be his last offence.

Considerations and Findings

17. Property offences remain widespread in today's society. House-breaking by night is an offence that violates at the most fundamental expectations of safety, a person's right to feel secure within their own home. The Defendant did not breach that expectation once, but repeatedly, across multiple households, in a calculated and persistent manner. Having served three prior custodial sentences for the same types of offences without deterrence, the sentence imposed must reflect not only the gravity of the individual offences but the need to send an unequivocal message to persistent property offenders.
18. As a matter of record, the Defendant has multiple convictions for offences under section 457 of the Penal Code. His first conviction in August 2005 involved three such offences, for which he received a total of 2 years' imprisonment and multiple strokes of the whip. His most recent section 457 offence was committed in October 2020, where he was sentenced to 3 years' imprisonment and 3 strokes of the whip. He also has three convictions for offences under

section 379 of the Penal Code, one committed in May 2017 and 2 offences in October 2020, the latter resulting in 1 year and 8 months' imprisonment on each charge.

19. Despite serving significant custodial terms on multiple prior occasions for the very same type of offences, the Defendant reoffended. His criminal record makes it difficult to accept that he is likely to rehabilitate without a substantial period of imprisonment. The failure of past sentences to deter him materially undermines his claim that he will not reoffend.

Applicable Law and Case Guidelines

Section 457 of the Penal Code offences

20. Firstly, the Court refers to the cases relied on by the Prosecution. In *Public Prosecutor v Hassan bin Hj Tahir* [HCCT No. 5 of 2022], the then Justice Dato Steven Chong observed that house-breaking is a very serious crime. Victims suffer not only the financial loss of their property but also a deep sense of insecurity within what should be the safety of their own homes. The Court, he stated, has a duty to protect the public from such offenders through deterrent custodial sentences.
21. This was echoed in *Daud bin Hj Zainal v Public Prosecutor* (Criminal Appeal No. 11 of 2004), where the Court noted that house-breaking is particularly egregious when committed at night, when occupants may be asleep and less able to protect themselves or their property.
22. In *Ilham Syarif v Public Prosecutor* (Criminal Appeal No. 3 of 2009) and *Md Ihsan bin Haji Awang Saini v Public Prosecutor* (Criminal Appeal No. 12 of 2013), the Court established that for a first offender convicted of house-breaking by night with intent to commit theft, the appropriate sentencing range is four (4) to five (5) years' imprisonment.
23. The Court further refers to the case of *PP v Rosman bin Abdullah Nyambong* (Criminal Appeal No.16 of 2021) where the learned Judge stated 'it is well established that a sentence of 5 years with strokes is not excessive for a single offence contrary in s.457 by an offender with a clear record.' It is therefore only natural that a heavier sentence would be imposed for an accused who is a repeat offender for similar type of offences.

Section 379 of the Penal Code offences

24. For offences under Section 379, in *Public Prosecutor v Pengiran Abdul Azim bin Pengiran Abd Azis* (ICCT/47/2023), it was observed that the sentencing range for theft falls between 6 months and 2 years' imprisonment, taking into account that the accused was a repeat offender. In *Norfazil bin Tamit v Public Prosecutor* (Criminal Appeal No. 129 of 2002), the Court affirmed that vehicle theft, being deliberate and pre-meditated, warrants a custodial sentence sufficient to deter, with a starting point of 12 months for a first offender with an appropriate reduction for a guilty plea.

Aggravating Factors

25. Having considered the facts and submissions, I find the following aggravating factors to be established on the facts of this case: -

- (i) Premeditation and planning: The Defendant did not act on impulse. He targeted residential properties and chose to act at night, when occupants are most vulnerable and the risk of detection is lowest. His conduct was calculated, not opportunistic.
- (ii) Pattern of offending over a short period: The Defendant committed three separate offences across two separate nights within less than two weeks of each other. This is not an isolated lapse in judgment. It reflects a continuing and deliberate course of criminal conduct.
- (iii) High value of stolen property: The total value of stolen items exceeds BND30,000, including a motor vehicle. Courts in Brunei have consistently held that the theft of vehicles and high-value property justifies a higher starting point.
- (iv) Use of stolen vehicle to facilitate further offending: The Defendant did not merely steal the Kia Seltos, he used it. As recognised in *Public Prosecutor v Pg Abdul Rahman bin Pg Shahbudin* (Criminal Appeal No. 145 of 2002), vehicle theft is particularly concerning when the vehicle is used as a tool to commit further crimes. That is precisely what occurred here.
- (v) Extensive criminal history: Reference to the Defendant's record of previous convictions shows a persistent pattern of the same type of offending.

Mitigating Factor

26. The only mitigating factor this Court can give weight to is the Defendant's guilty plea. He pleaded guilty on the eve of trial, prior to witnesses being called to give testimony, sparing them the need to testify and saving the Court time. The Court accords him an appropriate reduction from the starting point for each charge on this basis.
27. As for the Defendant's expression of remorse, this is treated with some caution. While this Court does not doubt that he regrets the situation he now finds himself in, the fact that he has offended repeatedly, despite previous sentences of imprisonment, suggests that remorse alone has not translated into changed behaviour. Further, the Court finds that the presence of a dependent mother carries limited weight as a mitigating factor where the offending is this serious and this persistent.

Sentence

28. In coming into the following decision on sentencing, the Court has considered the overall facts and circumstances of the case and the stated aggravating factors and sentences the Defendant as follows:
- (a) For the 1st and 2nd charge (housebreaking at night - s.457 PC): The Court takes a starting point of 6 years' imprisonment and 3 strokes of the whip for each charge. In view of the plea of guilty, for each charge, the Defendant's sentences are reduced by one third discount to the sum of 4 years' imprisonment and 2 strokes.

- (b) For the 3rd charge (theft of vehicle- s.379 PC): The Court takes a starting point of 2 years imprisonment, given the value of the vehicle and the aggravating use of it to facilitate further offending, and applying a one third reduction resulting in 1 year and 4 months' imprisonment following the guilty plea.

Totality Principle

29. The Defendant's total consecutive sentence adds up to 9 years and 4 months' imprisonment. The total sentence is undoubtedly excessive in comparison to the overall criminality of the offences. This therefore leads to the Court's task of ensuring that the final sentence imposed adequately reflects the offences' overall criminality and is not excessive.
30. When considering the full extent of the Defendant's criminality, the Court accepts the Prosecution's position that the offences represent distinct acts of wrongdoing committed across two separate nights and directed at different victims. The 1st and 2nd charges arose from entirely separate criminal acts involving different complainants, while the 3rd charge followed on from the same incident as the 2nd charge and concerned the same victim. To order all sentences to run concurrently would not adequately reflect the totality of the Defendant's offending. At the same time, to impose consecutive sentences across the board would result in a cumulative term that is, in the Court's view, disproportionately harsh.

Final Sentence

31. In the circumstances, the Court makes the following orders:

The sentences for the 1st and 2nd charges are to run concurrently, save that 1 year from the sentence on the 2nd charge is to run consecutively to the 1st charge, producing a combined sentence of 5 years' imprisonment.

The sentence for the 3rd charge is to run concurrently with that combined sentence of 5 years, save that 8 months from the 3rd charge is to run consecutively, bringing the total sentence to **5 years and 8 months' imprisonment**.

32. The sentences for whipping on the 1st and 2nd charges are to run cumulatively, giving a total of 4 strokes of the whip.
33. Lastly, the Defendant's overall sentence is backdated to take effect from the date of his remand on 2nd October 2025.

 

PG HJH NORISMAYANTI PG HJ ISMAIL
Judge, Intermediate Court