

Mohamad Mohin bin Puspawari

AND

Public Prosecutor

**(High Court of Brunei Darussalam)
(Criminal Motion No. 4 of 2026)**

Muhammed Faisal bin PDJLD DSP Kol(B) Hj Kefli, J.C.

Date of Ruling: 1st August, 2026.

Headnotes: Criminal Law – bail appeal application – bail denied by senior magistrate – propensity to commit offence – prosecution has strong case – eyewitness – bailed further denied – appeal dismissed

Applicant In Person.

DPP Abdul Musawwir bin Haji Awang Mahli for the Respondent.

Cases cited:

Moh Ting King v Public Prosecutor [1995] 3 MLJ 461

Zulkifli bin Puasa & Ors v Public Prosecutor [1985] 1 MLJ 461

Statutes:

Section 272(1) Criminal Procedure Code (Cap. 7)

RULING

Muhammed Faisal, J.C.:

I Introduction

1. This is an application for leave to appeal out of time against the Magistrate's decision not to grant the defendant bail, pending hearing.

II Background

2. The Applicant, Mohammad Mohin Bin Puspawari, was brought before the Magistrate on the 25th February 2026 facing a single charge under Section 456 Penal Code for *committing house breaking by night*.

3. He pleaded not guilty but was denied bail upon the prosecution's objections; the Senior Magistrate deemed that he had a propensity to commit further offences if released on bail.
4. Further mention on the 10th March 2026 whereby the Applicant forwarded once more his application for bail, was again denied by the magistrate hearing the case. She noted that that there was no change in circumstances that would warrant her reviewing the previous decision.
5. A notice of appeal was filed on behalf of the applicant by Nurbazilah Binti Salim, his wife on the 6th April 2026.

III The Application

6. There is an obvious delay in filing this application. The applicant however, failed to explain as to why he failed to file his appeal within the timeline prescribed by law.¹ Instead, his submissions proceed directly to the merits of his application.
7. The Applicant is married with two children, aged seven years and seven months respectively. He submits that he needs to sort out his marriage certificate in order to register the birth of his youngest child, which he is unable to do while in remand.
8. His wife is unemployed and dependent upon him for the upkeep of the family.
9. The Applicant further submits that he would be unable to properly prepare for his trial if he remains in remand.
10. He also relies upon his permanent address at Kg Mata-Mata and submits that, in a previous matter in 2017 and 2019, he complied with the conditions of bail.

IV Reply by the Respondent

11. Inexplicably, the respondent too failed to address the fact that the appeal is out of time and proceeded to submit straight to the merits of the appeal
12. The Respondent opposes the appeal and submits that bail was properly refused. It contends that the Applicant was made aware of the grounds of objection, namely, his propensity to reoffend, his risk of absconding or failing to comply with bail conditions, and the strength of the case against him.

¹ "The appellant shall within 14 days from the time of such judgment, sentence or order being passed or made, file a petition in the Court of such magistrate, paying at the same time the prescribed appeal fee." **Section 272(1) Criminal Procedure Code (CAP 7)**

13. The Respondent places particular reliance on the Applicant's previous conviction in 2022 for a similar offence, for which he received a term of imprisonment exceeding three years. It further points out that the Applicant was already on bail in another matter when the present offence was allegedly committed and had previously failed to report to the police as required. The Respondent submits that these circumstances demonstrate a continuing propensity to reoffend and a risk of non-compliance if released.
14. The Respondent also submits that the case against the Applicant is strong, relying upon eyewitnesses who allegedly saw him jumping from the window and the complainant's apprehension of him at the scene.
15. As to the Applicant's family circumstances, the Respondent accepts that these are genuine but submits that they cannot outweigh the risks of reoffending, absconding and non-compliance. It further submits that there has been no material change in circumstances since the original refusal of bail. Finally, relying on *Moh Ting King v Public Prosecutor* [1995] 3 MLJ 461, the Respondent submits that there is no basis for appellate interference with the lower court's exercise of discretion². It accordingly asks that the appeal be dismissed and the refusal of bail affirmed.

V Delay in Filing Appeal

16. This is clearly an application for leave to appeal out of time. I do not fault the defendant for not understanding the procedure but the respondent ought to have treated the matter as such.
17. Generally, the factors that has to be considered for an extension is the length of the delay and whether it can be satisfactorily explained, and whether the out of time application is likely to succeed³.
18. However, in fairness to the Applicant, I shall treat the respondent's position as not taking issue with the delay in filing the notice of appeal, and proceed to deal with the merits of the application.

VI Findings

19. The Applicant's application cannot be sustained. I am satisfied that because there is propensity of him committing further offence and on the strength of the prosecution's case, the Senior Magistrate was correct in not granting bail.

²"It is well settled that the High Court will not lightly interfere with the lower court's exercise of discretion and where the sessions court judge had refused bail after considering all the circumstances of the case, the High Court will not interfere unless it can be shown that the exercise of the discretion was erroneous." *Moh Ting King v Public Prosecutor* [1995] 3 MLJ 461 at pp 461 para E

³ See *Zulkifli bin Puasa & Ors v Public Prosecutor* [1985] 1 MLJ 461 at pp 461 para H

20. These factors weight heavily against the granting of bail.

21. I sympathize on the plight of his family, having lost their sole bread winner as well a leaving his youngest child in limbo without having his birth being registered yet with the relevant authorities. However, his family personal hardship does not outweigh the arguments put forward by the Respondent, in favour of his continued incarceration.

VII Order

22. Bail is thus, denied. The defendant is to be continued to be held in remand as per order of the court below until date of hearing.

23. Application dismissed.



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