

Public Prosecutor

AND

Marali bin Bakar

(Intermediate Court of Brunei Darussalam)
(Criminal Trial No. 38 of 2025)

Pg Hjh Masni Pg Hj Bahar, Judge
Date of Sentence: 22nd July 2026

*Headnote: Sentencing - Two charges - Section 451 PC - House trespass with the intention to commit theft
an offence punishable with imprisonment - Plead guilty during trial- Previous Conviction - Public
Interest-Deterrence sentence - Appropriate Sentence.*

DPP Radin Abdul Malik Wafri bin Radin Mas Mohamad Sufri for Public Prosecutor.
Defendant In Person and Unrepresented.

Case Cited:

Mond Shah Nurul Ridzuan Bin Haji Maiddin v PP (HCT Criminal Appeal No 18 of 2022)
Daud Bin Hj Zainal vs Public Prosecutor (Court of Appeal) (Criminal Appeal No: 11 of 2004)
Rosazli bin Hj Metassan v PP (Criminal Motion 6 of 2018)
Ahmadi bin Hj Nawawi v PP (Criminal Motion 1 of 2015),
Abdul Wakil bin Samsun Yusra v PP (Criminal Motion 35 of 2014)
Mohd Zahiruddin bin Hj Junaidi v PP (Criminal Motion 38 of 2013)
Prosecutor v Pg Abd Rahman bin Pg Shahbudin [2003] BLR 138
Mohammad Ezam Bin Tuah v Public Prosecutor [2015] 2 JCB 185
Norfazil Bin Tamit v Public Prosecutor [2003] 1 JCB 27

SENTENCING

Pg Hjh Masni Pg Hj Bahar, Judge:

Introduction

1. The Defendant, Marali bin Bakar, was charged for two counts of offence under section 451 of the Penal Code. He was charged for house-trespass in order to commit theft.

2. The Defendant initially claimed trial to both the charges. He pleaded not guilty to the following charges.

Charge:

Amended 1st charge:

"That you, sometime in early July 2025, at a house addressed at Spg 678, No: 2, Lot 6660, Kpg Lumut, in Brunei Darussalam, did commit house-trespass by entering into the said house in the possession of Muhammad Jeffendy bin Hj Jumat, in order to commit an offence punishable with imprisonment, to wit, theft, and you have thereby committed an offence punishable under Section 451 of the Penal Code, Chapter 22."

Additional 2nd charge:

"That you, sometime between 19th June 2025 and 4th July 2025, at a newly developed house addressed at Spg 424, Lot 11204, in Brunei Darussalam, did commit house-trespass by entering into the said house in the possession of San Hin Welding & Construction Sdn Bhd, in order to commit an offence punishable with imprisonment, to wit, theft, and you have thereby committed an offence punishable under Section 451 of the Penal Code, Chapter 22."

Penalty:

3. The penalty for both charges provides for an imprisonment sentence which may be extended to 5 years and shall be liable to fine and if the offence intended to be committed is theft, the term of imprisonment may be extended to 10 years.
4. After Prosecution had called its eleventh (11th) witnesses, the Defendant indicates his intention to change his plea.
5. The charges and its penalties were read and explained to the Defendant once again. The Defendant informed the Court that he understood the charges and its penalties penalty prescribed under the said offence. He admitted to committing both the offences and entered a guilty plea.
6. For the foregoing reasons, the Court accepts the Defendant guilty plea, being satisfied that the defendant understood the nature and the consequences of his plea, in compliance with Section 175 of the CPC.

Statement of Facts

7. The Defendant was unemployed at the material time.

Amended 1st charge:

8. In relation to the amended 1st charge, he admitted that trespassed into the house at Spg 678, No: 2, Lot 6660, Kg Lumut, in Brunei Darussalam (hereinafter referred to as 'the Lumut

House') sometimes in early July 2025 at about 2000 hours and stole one (1) TV, one (1) Gramophone and one (1) Speaker.

9. The house belonged to the late father of Muhammad Jeffendy Bin Hj Jumat (the Complainant). He visited the said house on the 9th July 2025 at around 2000 hours when he noticed that one of the gates to the said house and the front door were opened.
10. Upon entering and inspecting the house, he then realised his house has been broken into. He discovered the items mentioned above were missing from the said house.
11. He immediately lodged a police report at the Sg Liang Police Station. Following that police report, the Special Duty Police patrolled around the said vicinity of the house on the 10th July 2025. At about 0236 hours, they noticed a suspicious looking man wearing a black shirt and a red cap holding a black bag. The said man ran away from the said vicinity when he spotted the Police Patrol. The Police Patrol successfully apprehended the said person and the said man was identified as the Defendant.
12. The stolen items were not recovered.

Additional 2nd charge:

13. In relation to the Additional 2nd charge, the Defendant admitted going to the newly constructed Housing Development at Spg 424 Lot 11204 (the said Development) sometime in June 2025 with the intention to commit theft. He admitted that he entered into one of the newly constructed houses, cut and stole the electric cables. He then proceeded to another newly constructed house within the Housing Development Area, where he stole one (1) door handle and five (5) Sirius brand downlights. Thereafter, the Defendant returned home with the stolen items.
14. On the 4th July 2025, at about 1130 hours the complainant, Liew Ah while inspecting the said Development, discovered that one of the houses electric cables had been cut and stolen. This prompted him to further inspect the other houses within the Housing Development Area, during which he discovered that one of the houses door handles were missing. Police report were lodged which thereafter lodged a police report which led to the arrest and involvement of the Defendant.
15. The stolen items were then recovered from the Defendant's house at Spg 198-72, B1 JKR 376, Barek Lorong 3, Selatan Seria, Brunei Darussalam.
16. On record the Defendant has multiple previous convictions for offences against property.

Antecedent

17. The Defendant's Certificate of Previous conviction was adduced in court. It was read and explained to the Defendant.

18. The Defendant admitted and acknowledged that the particulars contained in the Certificate were his particulars and its content.
19. The Defendant admitted that he had numerous previous convictions for offences against property, namely under section 379 and Section 380 Penal Code, dating back to 2006. He further admitted that he was subsequently convicted of similar offence in 2019, 2020. The Defendant admitted that his recent conviction was in 2024 where he was sentenced to 12 months' imprisonment for offence under section 380, which is an offence of theft in a dwelling house.

Mitigation:

20. The Defendant seeks for lenient sentence and concurrent sentence.

Sentencing Submission:

21. Prosecution submits that the Defendant does not deserve the usual one-third discount as the Defendant changed his plea only in the midst of the trial.
22. The Prosecution cited the case of ***Mohd Shah Nurul Ridzuan Bin Haji Maiddin v PP (HCT Criminal Appeal No 18 of 2022)***. The Court provides that a usual one-third discount from the starting point sentence is usually considered to those who pleads guilty at the earliest reasonable opportunity because the said guilty plea have saves the Court's and Prosecutions time from undergoing a full trial from giving evidence. However, if the cases progress towards a trial it typically attracts only about a one-tenth reduction. In this case, the Magistrate gave a one-third discount as the Defendant pleads guilty at the eve of the trial.

Court's Consideration:

23. The Defendant pleaded guilty to house-Trespass with the intention to commit theft. Hence it falls under the 2nd limb of the penalty, which warrants for an imprisonment sentence of 10 years.
24. It has been echoed by the Appellate Court that offences against property are serious offences and a deterrence sentence has to be imposed as a matter of public interest in order to protect the public and their property ***Daud Bin Hj Zainal vs Public Prosecutor (Court of Appeal) (Criminal Appeal No: 11 of 2004)***.
25. In deciding the appropriate sentence, this Court refers to numerous cases which has been upheld by the Court of Appeal in determining the appropriate sentence for offence under section 451 PC. In the case of ***Rosazli bin Hj Metassan v PP (Criminal Motion 6 of 2018)***, ***Ahmadi bin Hj Nawawi v PP (Criminal Motion 1 of 2015)***, ***Abdul Wakil bin Samsun Yusra v PP (Criminal Motion 35 of 2014)*** and ***Mohd Zahiruddin bin Hj Junaidi v PP (Criminal Motion 38 of 2013)***, the sentence of 2 years' imprisonment was upheld for offender with clear record and pleaded guilty.

Appropriate Sentence.

26. The Defendant is a recalcitrant offender with history of simple theft related offences since 2006. He admitted that his most recent conviction was in 2024 for theft in a dwelling house, an offence contrary to section 380 Penal Code.
27. In the present case, the Defendant has escalated his criminal activity by committing house-trespass with the intention to commit theft, which is a more serious offence than simple theft. The defendant has failed to demonstrate genuine remorse. The defendant showed lack of respect to the law and the authority. It is evident that the defendant will continue to steal whenever the opportunity arises. In addition, the Defendant only changed his plea to one of guilt in the midst of the trial.
28. Bearing in mind the range of sentences upheld by the Appellate Court, each case has to be considered in its own merits. It was held in the case of **Public Prosecutor v Pg Abd Rahman bin Pg Shahbudin [2003] BLR 138**, a higher starting point sentence is justified for an offender with previous convictions.
29. In the circumstances and the aforesaid reasons, I am of the view that the Defendant does not deserve the lower range of starting point. A higher starting point is justified for recalcitrant offenders like the Defendant. I am of the view a starting point of 4 ½ years' imprisonment is appropriate.
30. I take note that the Defendant pleaded guilty in the midst of the Prosecution case. Nevertheless, I will grant the Defendant a one-third reduction in recognition of the guilty plea. The hereby sentence the Defendant to 3 years' imprisonment for each charge.

Sentence:

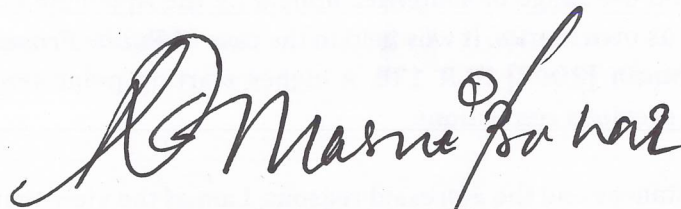
31. The defendant is hereby sentence as follows:
- | | |
|------------------------------------|-----------------------|
| Amended 1 st charge: | 3 years' imprisonment |
| Additional 2 nd charge: | 3 years' imprisonment |

Totality Principle:

32. The Defendant commits both offences on two separate occasions and involved different victims. It warrants for a consecutive sentence. A total sentence of 6 years, in my view would be excessive.
33. I am of the view that a total sentence of 4 ½ years for both charges reflects the Defendant's culpability, in particular the stolen items in relation to the Amended 1st charge was not recovered and the value of the stolen items cannot be regarded as less valuable. In relation to the Additional 2nd charge, the Defendant took advantage of the opportunity to steal from a newly constructed housing development. This demonstrates that the offence was

premeditated and that the Defendant deliberately exploited the fact that the development was newly constructed and therefore more vulnerable. Such conduct reflects his opportunistic character.

34. For the said reason, a cumulative sentence of 4 ½ years' imprisonment is appropriate. To achieve a total sentence of 4½ years' imprisonment, I order that 1½ years of the 3-year sentence imposed for the Additional 2nd Charge to run consecutively to the 3-year sentence imposed for the Amended 1st Charge, with the remaining 1½ years of the sentence on the Additional 2nd Charge to run concurrently, which brings a total sentence is 4 ½ years' imprisonment.
35. I order for the sentence to run from the date the defendant was remanded.
36. And the recovered items to be returned back to the rightful owner.



PG HJH MASNI PG HJ BAHAR
Judge, Intermediate Court