IN THE GENERAL DIVISION OF
THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2024] SGHC 223

Criminal Case No 21 of 2024

Between

Public Prosecutor

… *Prosecution*

And

Muhamad Akashah Aizad bin Hasni

… *Defendant*

GROUNDS OF DECISION

[Criminal Law — Statutory offences — Misuse of Drugs Act]
[Criminal Procedure and Sentencing — Sentencing]

TABLE OF CONTENTS

Public Prosecutor
v
Muhamad Akashah Aizad bin Hasni

[2024] SGHC 223

General Division of the High Court — Criminal Case No 21 of 2024
Mavis Chionh Sze Chyi J
31 July 2024

30 August 2024

Mavis Chionh Sze Chyi J:

Introduction

1 Since the issuance of the *Guidelines on Reduction in Sentences for Guilty Pleas* ("the *Sentencing Guidelines*") by the Sentencing Advisory Panel on 1 October 2023, there have been a number of cases before the General Division of the High Court in which accused persons pleaded guilty to trafficking and/or importing drugs in quantities falling just below the capital threshold specified in the Misuse of Drugs Act (Cap 186, 2008 Rev Ed) ("MDA") – for example, 499.99g of cannabis, 14.99g of diamorphine, and 249.99g of methamphetamine. In *PP v Iskandar bin Jinan and another* [2024] SGHC 134 ("*Iskandar bin Jinan*"), in which the accused Iskandar pleaded guilty to (*inter alia*) a charge of trafficking in not less than 14.99g of diamorphine under s 5(1)(a) and punishable under s 33(1) of the MDA, the prosecution took the position that in such drug trafficking and importation cases, the maximum

sentencing discount to be given for a plea of guilt should not be the 30% provided in the *Sentencing Guidelines*, but should instead be 10%. The defence in that case objected to the 10% limit proposed by the prosecution and argued instead for the courts to assess each case on a case-by-case basis instead of imposing a limit different from that provided for in the *Sentencing Guidelines*. After hearing submissions from both the prosecution and the defence, the High Court in *Iskandar bin Jinan* held that the maximum sentencing discount for a plea of guilt in such cases should be capped at 15% when an accused pleads guilty at what the *Sentencing Guidelines* refer to as Stage 1 of court proceedings (*ie*, from the first mention until 12 weeks after the hearing when the prosecution informs the court and the defence that the case is ready for the plea to be taken); further, that the sentencing discounts for pleas of guilt at the subsequent Stages 2 and 3 should be capped at 10% and 5% respectively.

2 In subsequent trafficking and importation cases which came before the High Court for pleas of guilt to be taken, the prosecution – referencing the court's decision in *Iskandar bin Jinan* – tended generally to adopt the position that while the general approach in the *Sentencing Guidelines* could be applied, the maximum sentencing discount to be given for pleas of guilt at Stage 1 should be 15%: see *eg*, *PP v Imran bin Arip* (HC/CC 15/2024), *PP v Liang Shoon Yee* (HC/CC 8/2023) and *PP v Muhammad Syafiq bin Azman* (HC/CC 55/2023). No written grounds of decision were issued in these cases as no appeals were filed.

3 In the present case, the accused Muhamad Akashah Aizad bin Hasni (the "Accused") faced one charge (the "Charge") under s 7 and punishable under s 33(1) of the MDA for the unauthorised importing of drugs into Singapore. The Charge read as follows:

That you, **MUHAMAD AKASHAH AIZAD BIN HASNI**,

> on 20 December 2021 at about 5.30pm, in a motor vehicle with registration number JPQ6223, at A5 Cargo Detection Arrival Channel, 501 Jalan Ahmad Ibrahim Tuas Checkpoint, Singapore 639937, did import into Singapore a controlled drug listed in Class 'A' of the First Schedule to the [MDA], *to wit*, three (03) blocks of vegetable matter containing not less than 499.99 grammes of cannabis, without authorisation under the said Act or the Regulations made thereunder and you have thereby committed an offence under section 7 and punishable under section 33(1) of the [MDA].

4 Prior to the Accused pleading guilty to the Charge on 31 July 2024, I had asked both the prosecution and the defence to put in further submissions on the application of the *Sentencing Guidelines* in drug trafficking and importation cases and on the appropriate sentencing discount to be given in the present case. On 21 May 2024, the High Court issued its written grounds of decision in *Iskandar bin Jinan*, as the accused in that case had appealed against his sentence (CA/CCA 18/2024). On 17 July 2024, the prosecution wrote in to state that CA/CCA 18/2024 had been set down for hearing in the week commencing 7 October 2024, and that while the prosecution was prepared to proceed with the taking of the Accused's plea in the present matter, it had no objections to the defence seeking an adjournment until after the determination of the appeal in *Iskandar bin Jinan*. After taking instructions from the Accused, however, defence counsel informed that the Accused – having been in remand for some time – did not wish his case to be further delayed and requested instead to be dealt with promptly without waiting for the determination of the appeal in *Iskandar bin Jinan*.

5 The Accused pleaded guilty to the Charge before me on 31 July 2024. In its further submissions, the prosecution explained that having given further consideration to the application of the *Sentencing Guidelines* in drug trafficking and importation cases, it wished to revert to the position originally taken in *Iskandar bin Jinan*: *ie*, that while the general approach in the *Sentencing*

Guidelines should be applied in such cases, the sentencing discount to be given for a plea of guilt should be capped at 10%. I agreed with most aspects of the prosecution's submissions, and sentenced the Accused to 24 years' imprisonment and 15 strokes of the cane. These are my full written grounds of decision.

6 I should highlight at the outset that in reaching my decision in this case, I have been greatly assisted by the High Court's detailed grounds of decision in *Iskandar bin Jinan*, and that I moreover had the benefit of further information and analysis by the prosecution which were not available to the High Court in *Iskandar bin Jinan.*

Facts

7 The salient facts in this case were as follows.

8 At the material time, the Accused was employed in Malaysia by LCK Transport Sdn Bhd as a lorry driver tasked with transporting goods between Singapore and Malaysia.[1]

9 On 20 December 2021, at about 5.30pm, the Accused drove a Malaysian-registered lorry (the "Lorry") into Singapore from Malaysia via Tuas Checkpoint. The Lorry was flagged for further checks at A5 Cargo Detection Arrival Channel, 501 Jalan Ahmad Ibrahim Tuas Checkpoint. Three bundles wrapped in golden foil and transparent cling wrap were found inside a red drawstring bag which was placed behind the driver's seat of the Lorry.[2]

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1 Statement of Facts dated 9 April 2024 ("SOF") at para 1.

2 SOF at paras 2–3.

10 After the golden foil and transparent cling wrap over the three bundles were removed, three blocks of vegetable matter were revealed. These were sent to the Health Sciences Authority ("HSA") for analysis. Collectively, the three bundles were found to contain not less than 1,203.6 grammes of cannabis.[3]

11 Investigations revealed that the Accused had agreed to import cannabis into Singapore on behalf of an individual known only as "Auction Power". It was under such circumstances that on 20 December 2021 at about 5.30pm, the Accused entered Singapore via Tuas Checkpoint, knowing that the three blocks of vegetable matter were in his Lorry.[4]

The appropriate sentencing framework

The sentencing framework established by case law for drug trafficking and importation offences

12 The applicable sentencing framework for offences of drug trafficking and drug importation has been authoritatively elucidated in *Vasentha d/o Joseph v PP* [2015] 5 SLR 122 ("*Vasentha*") at [44] and endorsed by the Court of Appeal in *Suventher Shanmugam v PP* [2017] 2 SLR 115 ("*Suventher Shanmugam*") at [28]. I will refer to this as "the *Vasentha-Suventher* framework". According to the *Vasentha-Suventher* framework:

> (a) the sentencing judge is to first have regard to the quantity of drugs in order to identify the indicative starting point. This is because the quantity of drugs trafficked or imported reflects the degree of harm to society and is a reliable indicator of the seriousness of the offence;

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3 SOF at paras 6–8.

4 SOF at paras 9–12.

(b) after the indicative starting point has been identified, the sentencing judge should consider the necessary adjustments to be made upwards or downwards based on: (i) the offender's culpability; and (ii) the presence of relevant aggravating or mitigating factors; and

(c) where appropriate, the sentencing judge may take into consideration the time spent by the offender in remand prior to the conviction, either by backdating the sentence or discounting the intended sentence.

13 It will also be remembered that under the MDA, drug trafficking and importation offences are subject to different mandatory minimum imprisonment sentences which vary according to the weight of the drugs trafficked or imported.

14 In the present case, the charge against the Accused was one of importing not less than 499.99g of cannabis into Singapore. For unauthorised importation of 330–499.99g of cannabis (or 660–999.99g of cannabis mixture), the Second Schedule to the MDA provides for a minimum sentence of 20 years' imprisonment and 15 strokes of the cane, and a maximum of 30 years' imprisonment or imprisonment for life and 15 strokes of the cane. The range of sentences for trafficking in these drugs (pursuant to s 5 of the MDA) is identical. For completeness, I note that for first-time offenders who trafficked or imported amounts below 330g of cannabis, the statutory minimum imprisonment term is 5 years, while the statutory maximum term is 20 years; and offences of trafficking or importing amounts equal to or exceeding 500g of cannabis carry the mandatory death penalty.

15 *Per* the Court of Appeal's judgment in *Suventher Shanmugam*, within the parameters of the statutory minimum and maximum sentences, the indicative starting sentences should be scaled according to the weight of the cannabis trafficked or imported. In *Suventher Shanmugam* (at [29]), the Court of Appeal found the *Vasentha* framework to be a useful guide in deriving the following sentencing guidelines for offences of trafficking or importing cannabis:

(a) 330 to 380g: 20 to 22 years' imprisonment

(b) 381 to 430g: 23 to 25 years' imprisonment

(c) 431 to 500g: 25 to 29 years' imprisonment

16 In establishing these sentencing guidelines, the Court of Appeal cautioned (at [30]) that –

> The indicative sentences are starting points for arriving at an appropriate sentence and should obviously not be applied mechanistically without regard for the precise circumstances in each case. The indicative sentences seek to make the punishment fit the crime but it is of course equally important to ensure that the punishment fits the offender too. Thus, as mentioned in *Vasentha* (at [48]), the indicative starting sentence may be adjusted upward or downward to take into account the offender's culpability and the presence of aggravating or mitigating factors. It is possible, of course, that such upward or downward adjustments could result in the eventual sentence being outside the range of sentences …

Iskandar bin Jinan and the application of the Sentencing Guidelines

Overview

17 A key question that arose for determination in *Iskandar bin Jinan* and in the present case was how an accused's plea of guilt should be factored into the calibration of the appropriate sentence under the *Vasentha-Suventher*

framework. Traditionally, the accused's plea of guilt constituted a mitigating factor which the sentencing judge would consider in making the necessary adjustments to the indicative starting sentence (see *Vasentha* at [71]). As the accused's plea of guilt would typically be weighed in the balance together with all the other aggravating and mitigating factors, it would not always be possible to discern the precise quantum of the sentencing discount accorded to an accused person solely on account of his plea of guilt.

18 The *Sentencing Guidelines* were developed for the purpose of promoting consistency, clarity and transparency in the sentencing of offenders who plead guilty (see Singapore Parl Debates; Vol 95; Sitting No 112; [19 Sept 2023] (K Shanmugam, Minister for Home Affairs and Law) ("*Hansard on the Sentencing Guidelines*") at Question 28; *Sentencing Guidelines* at para 3). The *Sentencing Guidelines* do not fundamentally change the courts' sentencing practice and are not intended to result in reductions in sentences over and above existing judicial guidelines or precedents in cases where offenders have pleaded guilty (see *Hansard on the Sentencing Guidelines* at Question 28).

19 Under the *Sentencing Guidelines* (at Table 1), the recommended approach for determining a sentence where an accused person pleads guilty involves the following three steps:

> (a) In Step 1, the court is to determine the sentence that it would have imposed if the accused person had been convicted after trial. At this stage, the court may (if appropriate) consider if the accused person has demonstrated remorse in other ways apart from pleading guilty. However, factors relating to the accused person's plea of guilt (such as the victim having been spared from having to testify) should not be considered at this stage;

(b) In Step 2, the court determines the applicable stage of proceedings that the accused person pleaded guilty to the charges. For example, Stage 1 would cover the period from the first mention until 12 weeks after the hearing when the prosecution informs the court and the accused person that the case is ready for the plea to be taken; and

(c) In Step 3, the court applies an appropriate reduction to the sentence that was determined in Step 1 for each charge. Generally, the strength of the evidence against the accused should not be taken into account when determining the level of reduction in sentence – subject to the public interest exception set out in paragraph 13(b) of the *Sentencing Guidelines*.

20 For the purposes of Steps 2 and 3, the *Sentencing Guidelines* set out in Part III the maximum reduction in sentence that the court may consider giving an offender on account of his plea of guilt, depending on the stage of the proceedings at which the offender pleads guilty. The four stages set out in the *Sentencing Guidelines* (at Table 2) are as follows:

Stage	**Description**	**Maximum Discount**
Stage 1	From the first mention until 12 weeks after the hearing when the prosecution informs the court and the accused person that the case is ready for the plea to be taken	30%
Stage 2	After Stage 1, until either of the following:	20%

	• For cases subject to Criminal Case Disclosure ("CCD") procedures, when the court first gives directions for the filing of the Case for the Prosecution in relation to the charge. • For cases not subject to CCD procedures, when the court first fixes the trial dates for the charge.	
Stage 3	After Stage 2, until before the first day of the trial.	10%
Stage 4	On or after the first day of the trial.	5%

21 The reduction to be applied in Step 3 should generally not exceed the maximum reduction for the applicable stage as set out in Part III: see paragraph 8 of the *Sentencing Guidelines*. Moreover, given that these figures in Table 2 represent the *maximum* reductions in sentence to be considered at each stage, the court obviously retains the discretion to give a smaller discount in appropriate cases. Where the final sentence after the reduction is applied is at variance with existing judicial guidelines or precedents for the offence in question, the court should apply its mind as to whether to adopt the existing judicial guidelines or precedents, or to give full effect to the relevant reductions in sentence under Table 2 (see *Sentencing Guidelines* at para 10).

22 More generally, the *Sentencing Guidelines* provide (at para 2) that the court may decide whether to adopt the guidelines in a given case, and if so, how the guidelines should be applied. If the prosecution or the defence in any case intends to invite the court not to apply a relevant guideline or any part thereof, the party should inform the court and the other party of this at the earliest

available opportunity; and if the court decides not to apply a relevant guideline, the judge is encouraged to provide reasons for not doing so.

23 *Iskandar bin Jinan* appears to have been the first case in which the High Court had to consider how the *Sentencing Guidelines* should be applied in the context of drug trafficking and importation offences under the MDA, having regard to the various tiers of mandatory minimum sentences prescribed for such offences. In *Iskandar bin Jinan*, the High Court noted that for such cases, there seemed to be possible differences between the approach of the *Sentencing Guidelines* and the approach under existing case law. The first possible difference related to the provision in the *Sentencing Guidelines* that the strength of the evidence against an accused should not be taken into account when determining the appropriate reduction in sentence. At first blush, this provision appeared at variance with some earlier judicial precedents (see *eg*, *Xia Qin Lai v PP* [1999] 3 SLR(R) 257) in which it had been held that a plea of guilt should be accorded little weight if the evidence against the accused was overwhelming. The High Court in *Iskandar bin Jinan* pointed out, however, that in *Ng Kean Meng Terence v PP* [2017] 2 SLR 449 ("*Terence Ng*"), the Court of Appeal had endorsed (at [66]) both remorse-based and utilitarian-based justifications for reducing a sentence on account of a plea of guilt: the former involving a recognition that a plea of guilt represented genuine remorse on the accused's part; the latter involving a recognition that a plea of guilt spared the victim the ordeal of testifying and saved the resources of the State which would otherwise have been expended on a trial. Since the Court of Appeal's decision in *Terence Ng*, the courts had been giving substantial mitigatory weight to pleas of guilt even in cases where the accused was caught red-handed (see *eg*, *PP v Vashan a/l K Raman* [2019] SGHC 151 ("*Vashan*"); and *PP v Murugesan a/l Arumugam* [2020] SGHC 203 ("*Murugesan (HC)*")). As such, there was no real

variance between the provision in the *Sentencing Guidelines* and the applicable judicial precedents.

24 Secondly, the High Court in *Iskandar bin Jinan* noted that in *Terence Ng*, the Court of Appeal had declined to follow the approach suggested by the UK Sentencing Guideline Council's *Reduction in Sentence for a Guilty Plea: Definitive Guideline (July 2007)* in setting prescribed sentencing discounts based on the timeliness of the plea of guilty. However, the High Court pointed out (at [34]) that the real objection – *per* the Court of Appeal in *Terence Ng* (at [70]) – was to "the setting of fixed sentencing discounts [which] does not allow the court to take into account the many and varied reasons for which a plea of guilt if entered and the effects it might have on the victim and the criminal justice process as a whole". The *Sentencing Guidelines* did not stipulate *fixed* sentencing discounts, and instead, merely set out the guideline *maximum* reductions in sentence to be given to a plea of guilt at relevant stages of the court proceedings. As such, the sentencing courts retained the discretion to give a discount smaller than the maximum figure suggested by the *Sentencing Guidelines*, taking into consideration "the many and varied reasons for which a plea of guilt if entered and the effects it might have on the victim and the criminal justice process as a whole".

25 Thirdly, the High Court in *Iskandar bin Jinan* noted that under the *Sentencing Guidelines*, the court first determines the sentence it would have imposed if the accused had been convicted after trial, before eventually applying the appropriate discount to be given to the accused's plea of guilt. This appeared contrary to the Court of Appeal's approach in *Terence Ng*. In that case (at [36]–[37]), the Court of Appeal – referencing the judgment of the New Zealand Court of Appeal in *R v Taueki* [2005] 3 NZLR 372 ("*Taueki*") – endorsed an approach whereby the sentencing court would first identify a "starting point sentence"

reflecting the intrinsic seriousness of the offence, before adjusting this "starting point sentence" either up or down to reflect the circumstances personal to the offender. However, as to the third step in the *Taueki* methodology which involved the application of a sentencing discount by reason of a plea of guilt or for the rendering of assistance to the police, the Court of Appeal demurred, opining that these were "offender-specific mitigating factors and can and should be taken into account at the second stage of the analysis instead of being considered separately" (*Terence Ng* at [38]).

26 In *Iskandar bin Jinan*, the High Court concluded that while the Court of Appeal in *Terence Ng* had refrained from adopting the third step in the *Taueki* methodology, the language in which it expressed its view (using words such as demur" and "can and should") indicated that it "probably did not intend to lay down an immutable rule that is incapable of being adapted according to the circumstances" (*Iskandar bin Jinan* at [35]). As such, lower courts were not precluded from following the three-step framework under the *Sentencing Guidelines*, in which the discount to be given to a plea of guilt was considered separately in the third step.

27 Having concluded that the three-step framework under the *Sentencing Guidelines* was generally applicable, the High Court held, by way of general principle, that the full 30% reduction provided for Stage 1 under the *Sentencing Guidelines* should not be applied to drug trafficking and importation offences (*Iskandar bin Jinan* at [46]). Instead, an appropriate maximum reduction would be 15% where an accused person pleads guilty at Stage 1, 10% where an accused person pleads guilty at Stage 2, and 5% where an accused person pleads guilty at Stages 3 and 4 (*Iskandar bin Jinan* at [50]). This was because applying the maximum discount of 30% would result in most sentences falling at or near the mandatory minimum imprisonment term, irrespective of the harm caused by

the offence and/or the culpability of the offender (*Iskandar bin Jinan* at [45]–[46]). Upon surveying several cases decided by our local courts in which the weight of the drugs involved was close to the capital threshold, the High Court opined that these cases showed a general sentencing trend of 25 years' imprisonment, taking into account the plea of guilt and other mitigating factors (*Iskandar bin Jinan* at [48]). Consequently, applying a maximum reduction of 15% for accused persons who plead guilty at Stage 1 would preserve consistency with the sentences meted out under existing case law (*Iskandar bin Jinan* at [48]). It also followed that the maximum reductions for accused persons who pleaded guilty at a later stage would be reduced, such that an accused person who pleaded guilty at Stage 2 would only be entitled to a maximum reduction of 10%, while accused persons who pleaded guilty at Stages 3 and 4 would be entitled to a maximum reduction of 5% (at [50]).

28 Further, the court in *Iskandar bin Jinan* observed that setting the maximum reduction at 15% might result in a sharp dip between the sentences imposed on an offender who trafficked or imported 9.99g of diamorphine and one who trafficked or imported 10g of diamorphine. The former would receive an imprisonment term of between 11 years and 12 years 9 months (applying a 15% reduction to the indicative starting sentence of 13 to 15 years' imprisonment), while the latter would suffer the mandatory minimum imprisonment of term of 20 years. The High Court in *Iskandar bin Jinan* held (at [54]) that the court could apply a smaller than usual reduction in the former cases in order to avoid this overly pronounced "cliff effect". As an aside, I note that for the purposes of sentencing, 9.99g of diamorphine and 10g of diamorphine may be roughly equated to 329.99g of cannabis and 330g of cannabis, respectively.

29 Bearing in mind the discretion that the sentencing judge retains under the *Sentencing Guidelines*, the next question that falls to be considered concerns the factors which the sentencing judge should have regard to when determining the appropriate reduction in sentence to be accorded to an accused's plea of guilt (up to the applicable maximum reduction). In *Iskandar bin Jinan*, the High Court held that the factors recognised in existing case law would continue to be relevant. This would include an assessment of the extent to which the guilty plea constituted evidence of remorse, the extent to which the guilty plea saved victims and witnesses from having to testify, and the extent to which public resources were saved (*Iskandar bin Jinan* at [52]–[53]). In this connection, *per* the admonition in the *Sentencing Guidelines*, the strength of the evidence against the accused should generally not be taken into account when determining the level of reduction in sentence (*Iskandar bin Jinan* at [52]).

The Prosecution's submissions

30 I next summarise the Prosecution's submissions in the present case. Initially, the Prosecution took the view that a 15% reduction should be applied in this case, given that the Accused had pleaded guilty to an amended charge at the first available opportunity.[5] However, following the issuance of written grounds of decision in *Iskandar bin Jinan* and pursuant to my request for further submissions, the Prosecution took a somewhat different position. At [31]–[39] below, I summarise the position taken by the Prosecution in its further written submissions.

31 First, the Prosecution submitted that it would be appropriate to apply the *Sentencing Guidelines* in cases involving first-time traffickers and importers of

5 Prosecution's Submissions on Sentence dated 9 April 2024 ("PSS") at paras 24–25.

drug amounts falling just below the capital threshold, but that the maximum reduction at Stage 1 in such cases should be fixed at 10%. To avoid an overly mathematical approach, the Prosecution also suggested that it should not be necessary to set out separate percentage reduction ranges for guilty pleas at the later stages; further, that if the court wished nonetheless to articulate separate discount ranges for these later stages, a maximum reduction of 5% could be applied for Stages 2, 3 and 4.[6] Further, in determining the appropriate reduction at Step 3 of the *Sentencing Guidelines*, the sentencing court should generally consider a reduction near the maximum reduction suggested for each stage, as this would promote greater transparency and certainty for accused persons.[7] The Prosecution further suggested two caveats to this proposition which are elaborated upon below (at [37]).

32 The Prosecution advanced several reasons in its further written submissions as to why the maximum reduction at Stage 1 in such cases should be fixed at 10%, instead of the 15% applied by the High Court in *Iskandar bin Jinan.* First, for cases involving multiple aggravating factors and/or offenders with higher culpability (*ie* cases which would attract pre-reduction sentences of 29 to 30 years' imprisonment), the maximum reduction of 15% adopted in *Iskandar bin Jinan* would result in these cases ending up with final sentences of about 25 years' imprisonment, which would be inconsistent with pre-*Sentencing Guidelines* precedents.[8] In this connection, the Prosecution brought to my attention the survey it had conducted of sentences meted out post-*Sentencing Guidelines* in cases involving trafficking or importation of drug

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6 Prosecution's Further Submissions on Sentence dated 18 June 2024 ("PFSS") at paras 16–18.

7 PFSS at para 19.

8 PFSS at paras 6–7.

amounts falling under the capital threshold, highlighting that these sentences appear largely to hover around 25 years' imprisonment, with lower imprisonment terms for offenders assessed to be of lesser culpability.[9] This, according to the Prosecution, contrasted with the sentences meted out in similar drug trafficking and importation cases dealt with by the courts pre-*Sentencing Guidelines*, which sentences ranged from 24 years' imprisonment in the less serious cases to 28 years' imprisonment for the most egregious.[10] According to the Prosecution, "[c]apping the maximum reduction at 15% has led to the clustering of sentences around the 25-year mark regardless of the culpability or role of the offender and the number of aggravating factors present … Pre-[*Sentencing Guidelines*], it was only offenders with lower culpability and who played a limited role of courier who received sentences of about 25 years' imprisonment".[11]

33 I have reproduced the Prosecution's findings in the annexes to these written grounds of decision (see Annex 1: Pre-Sentencing *Guidelines* cases and Annex 2: Post-Sentencing *Guidelines* cases).

34 Second, the Prosecution noted that in *Iskandar bin Jinan*, the High Court had referred to cases in recent years involving first-time offenders with drug amounts close to the capital threshold: according to the High Court, these cases showed a "general trend … for a sentence of around 25 years to be imposed after taking into account the plea of guilt and other mitigating factors"; and since a sentence of 25 years was "about 14% lower than the indicative starting sentence of 29 years under the *Vasentha-Suventher* framework", this made 15%

9 PFSS at para 8 and Annex B.

10 PFSS at para 7 and Annex A.

11 PFSS at para 21.

"an appropriate maximum reduction" for the courts to adopt when applying the *Sentencing Guidelines* to such trafficking and importation cases (*Iskandar bin Jinan* at [48]). In its further submissions in the present case, the Prosecution argued that the above reasoning did not take into account the existence of myriad factors in these cases which resulted in a general trend towards sentences of around 25 years.[12] In other words, the 14% reduction in sentence which the High Court had noted in such cases was attributable not only to the plea of guilt but also to a multitude of other factors. In particular, the Prosecution pointed out that the cases which featured sentences of 25 years' imprisonment tended to involve offenders who had played a limited role in the drug trafficking or importation process (*eg* the role of a courier).

35 Third, the Prosecution noted that in *Iskandar bin Jinan*, the High Court had acknowledged a potential "cliff effect" resulting from the application of a maximum reduction of 15% at Stage 1 of proceedings, whereby an accused who trafficked or imported 329.99g of cannabis would receive a sentence between 11 years and 12 years 9 months upon application of a 15% reduction, whereas an accused who trafficked or imported 330g of cannabis would receive the mandatory minimum imprisonment term of 20 years. The Prosecution noted that the High Court's proposed workaround for this "cliff effect" involved adopting a "smaller than usual reduction" for offences involving 329.99g of cannabis (or 9.99g of diamorphine). In its further submissions in the present case, the Prosecution argued that given the recognition accorded in the *Sentencing Guidelines* to the benefits of a timely plea of guilt, it would seem arbitrary to apply a "smaller than usual reduction" in cases involving 329.99g of cannabis when the maximum reduction was applied in cases involving drugs below and above that weight. Moreover, according to the Prosecution, it was not clear at

12 PFSS at para 12.

which particular weight the "smaller than usual" reduction should apply: if it only applied to 329.99g of cannabis but not (for example) 329.90g or 300g, then the "cliff effect" would only be deferred and not eliminated.[13]

36 More generally, the Prosecution also submitted that while the sentencing court had the discretion to apply a reduction in sentence lower than the maximum figure, the court should "generally apply a reduction nearer to the maximum" reduction provided at each stage. This was because it would often be unclear what factors the court should consider in exercising its discretion to apply a reduction lower than the maximum. For example, if the court were to consider as a relevant factor the extent to which the guilty plea had saved victims and witnesses from having to testify, this raised the question of whether an accused who pleaded guilty in a simple case involving only a handful of witnesses should be entitled to the maximum reduction in sentence on account of his plea of guilt. Likewise, it was unclear how a court would be able to assess the extent to which a plea of guilt constituted evidence of remorse beyond the typical considerations of voluntary restitution, voluntary surrender, or the strength of the evidence against the accused, all of which should not be considered under this step in the *Sentencing Guidelines*.[14]

37 Having regard to these reasons, the Prosecution submitted that the courts should generally apply a reduction nearer to the maximum within each stage of the *Sentencing Guidelines* – subject to the following caveats: (a) *ceteris paribus*, an accused who pleaded guilty at an earlier phase of court proceedings than the other (even within the same stage of the *Sentencing Guidelines*) should receive a larger reduction in sentence compared to an accused who pleaded guilty at a

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13 PFSS at para 14.

14 PFSS at para 9.

later phase; and (b) the sentencing court should apply a reduction lower than the maximum in cases where an accused had engaged in unreasonable conduct resulting in delay to the court proceedings.[15] These caveats would ensure conformity with a key principle of the *Sentencing Guidelines*, *ie* that the earlier an accused indicated his intention to plead guilty, the larger the reduction in his sentence ought to be.[16]

38 By way of general principle, the Prosecution also submitted that in cases which contained multiple serious aggravating factors, where the pre-reduction sentence for an accused would have been 30 years' imprisonment, the court retained the discretion to award a reduction of less than 10% for the accused's plea of guilt. This could be done by: (a) invoking the public interest exception set out in paragraph 13(b) of the *Sentencing Guidelines*, or (b) exercising the court's discretion to apply a smaller reduction at the given stage of the sentencing framework. *Per* the Prosecution, either method would preserve the court's ability to impose higher sentences in appropriate cases, in line with existing sentencing precedents.[17] *Inter alia*, for example, this would ensure that repeat offenders convicted of trafficking or importing drugs close to the capital threshold received sentences of 28 to 30 years' imprisonment after any reduction on account of their guilty pleas had been factored in, which would be in line with existing precedents.

39 Lastly, by way of general principle, the Prosecution submitted that the strength of the evidence against an accused should not be considered by the sentencing court in determining the appropriate reduction to be given for his

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15 PFSS at para 10.

16 PFSS at para 11.

17 PFSS at paras 25–28.

guilty plea. This aligned with the position stated in the *Sentencing Guidelines* and also the position adopted by the High Court in *Iskandar bin Jinan*. The *Sentencing Guidelines* represented a shift in emphasis away from the remorse-based justification for reducing sentences on account of a guilty plea, and towards a greater recognition of the utilitarian justification recognised by the Court of Appeal in *Terence Ng* (at [66]).[18] According to the Prosecution, the courts in numerous post-*Terence Ng* decisions could already be seen according substantial mitigatory weight to a plea of guilt even where an accused had been caught red-handed.[19] In the recent case of *PP v Randy Rosigit* [2024] SGHC 171 ("*Randy Rosigit*"), for example, a three-judge High Court expressly accorded due mitigatory weight to the respondent's plea of guilt, notwithstanding the fact that he had effectively been caught red-handed in the course of a police raid (at [68]).

The Defence's submissions

40 The Defence, on the other hand, took an entirely different position from the Prosecution in arguing against the application of the *Sentencing Guidelines*. According to the Defence, a blanket imposition or percentage reduction in sentences "should not be applicable across the board without more", and further, there "should be no fettering of judicial discretion for mercy on the facts of a given case on the basis of guidelines that can be arbitrary in its application".[20]

41 At the hearing before me, counsel for the Defence made additional oral arguments in which he urged me not to apply the *Sentencing Guidelines*. One

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18 PFSS at paras 29–36.

19 PFSS at para 37.

20 Defence's Further Submissions on Sentence dated 18 June 2024 ("DFSS") at paras 27–28.

of counsel's arguments appeared to be that the *Sentencing Guidelines* created a perverse incentive for an accused person to plead guilty: counsel said that in so far as they set out maximum reductions which an accused could expect to get upon pleading guilty, the *Sentencing Guidelines* were "like a bait" to the accused who would be "put in a bit of a dilemma" if he received an offer from the Prosecution.[21]

42 In oral arguments, counsel for the Defence also submitted that the application of sentencing guidelines and sentencing frameworks – along with the mandatory minimum punishments prescribed in the MDA – would result in the fettering of judicial discretion, which would be wrong "on principle", because sentencing "should not be done by Parliament but it should be done by the Court".[22] According to counsel, the minimum sentences prescribed in the MDA "does not give the court a chance to think about [imposing a lower sentence where appropriate]";[23] and likewise, sentencing guidelines and sentencing frameworks in general would unduly restrict the court's discretion in sentencing an accused person.[24]

43 On this basis, counsel also made the oral argument that the nature and the weight of the drugs should no longer be considered in determining the appropriate sentence of imprisonment in cases such as the Accused's, because these factors would have been taken fully into account via the imposition of enhanced sentences for offences involving drugs of a particular nature (*ie*,

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21 Transcript dated 31 July 2024 at pp 23:30–24:1; 24:18–28.

22 Transcript dated 31 July 2024 at pp 18:14–32.

23 Transcript dated 31 July 2024 at pp 18:14–32.

24 Transcript dated 31 July 2024 at pp 21:29–32; 22:1–5.

cannabis) and weight (*ie*, not less than 330 grammes and not more than 499.99 grammes).[25]

My decision

44 Having considered both sides' submissions, I agreed with the High Court in *Iskandar bin Jinan* that the three-step analytical framework under the *Sentencing Guidelines* should be applied to drug trafficking and importation cases. However, I accepted the Prosecution's submission that in applying the *Sentencing Guidelines* to drug trafficking and importation cases, the maximum reduction in sentence to be awarded on account of an accused's guilty plea should be capped at 10%. I explain below the reasons for my decision.

(1) On the application of the *Sentencing Guidelines* to drug trafficking and importation cases

45 At the outset, I concurred with the reasons given by the High Court at [32]–[35] of its judgment in *Iskandar bin Jinan* in explaining that existing judicial precedents did not bar the application of the *Sentencing Guidelines* to pleas of guilt entered in drug trafficking and importation cases.

46 In particular, as the court in *Iskandar bin Jinan* pointed out, the Court of Appeal's view in *Terence* Ng was that the mitigatory effect of a guilty plea "*can and should*" be considered by the sentencing court together with other offender-specific mitigating factors – not that it "*must*" invariably be so considered. Pertinently, in answering a Parliamentary question on 19 September 2023 about the application of the *Sentencing Guidelines*, the Minister for Law stressed that the *Sentencing Guidelines* were intended to "build on and provide greater structure to the *existing practice*" of the courts and to provide "increased

[25] DFSS at paras 18–21; Transcript dated 31 July 2024 at pp 20:10–24.

consistency, clarity and transparency to the *existing sentencing practice*" by "setting out clearly the ranges in reduction in sentence which a court may consider granting, based on when an accused pleads guilty" (*Hansard on the Sentencing Guidelines* at Question 28, emphasis added). In other words, it would seem clear that although the Court of Appeal in *Terence Ng* demurred on the adoption of the "third step" in the *Taueki* methodology (which involved the discount for a guilty plea being considered as a separate third step after calibration of the indicative starting sentence), its decision has not generally been understood as establishing an inflexible or immutable general prohibition against such an approach. Further and in any event, the application of the *Sentencing Guidelines* in drug trafficking and importation cases will not preclude a sentencing court from finding that in certain cases, the mitigatory effect of a guilty plea "can and should" still be considered together with the other offender-specific mitigating factors. As noted earlier (at [22]), the *Sentencing Guidelines* expressly highlight that the court retains the discretion to disapply the *Sentencing Guidelines* or any part thereof in appropriate circumstances.

47 Thus, for example, in *Iskandar bin Jinan*, the High Court did not eventually apply the *Sentencing Guidelines* to the accused person Iskandar and his co-accused Farid. This was because both were repeat offenders whose offences involved drug amounts close to the capital threshold. The High Court found (at [55]–[58]) that for cases involving repeat offenders charged with trafficking or importing drug amounts just below the capital threshold, applying the approach under the *Sentencing Guidelines* would lead to sentences which were not commensurate with the culpability of these offenders and the seriousness of their offences. The High Court noted (at [59]) that in cases where the sentencing court concluded that it would be contrary to the public interest to apply the *Sentencing Guidelines*, paragraph 13(b) preserved the courts'

discretion to apply a "just and proportionate" sentence without reference to the reductions provided" in the *Sentencing Guidelines*. Accordingly, the High Court held (at [59]) that for those cases involving repeat offenders charged with drug amounts just below the capital threshold, the need to "safeguard the public interest in securing adequate punishment" should lead to the disapplication of the *Sentencing Guidelines*; and instead, "the sentencing court should apply the traditional (pre-*Sentencing Guidelines*) approach of considering the mitigating effect of the guilty plea together with the other aggravating and mitigating factors".

(2) The applicable sentencing principles

48 Next, bearing in mind the fact that the *Sentencing Guidelines* were not intended to fundamentally change our sentencing practice, any application of these *Sentencing Guidelines* should be consistent with generally applicable sentencing principles. The first and perhaps the most fundamental principle is that of proportionality, in that "the punishment imposed must fit both the crime and the offender" (see *Terence Ng* at [71]). In this connection, it is well-established that for trafficking and importation offences under the MDA, the quantity of drugs trafficked or imported bears a direct correlation with the harm caused by the crime (*Suventher Shanmugam* at [21]; *Mohd Akebal s/o Ghulam Jilani v PP* [2020] 1 SLR 266 ("*Mohd Akebal*") at [17]). At the same time, proportionality also requires that the sentence imposed be commensurate with the culpability of the accused, bearing in mind as well the presence of other aggravating and mitigating factors (*Vasentha* at [35]–[36] and [45]).

49 The second important principle follows from the first. In assessing the proportionality of a sentence, no single factor should be singled out as being of particular significance. Although under the *Sentencing Guidelines* framework,

the court considers the mitigatory weight of the accused's plea of guilt after considering the accused's culpability and the other aggravating and mitigating factors, the mitigatory effect of a guilty plea has nevertheless to be weighed against the overall criminality of a given offence. Thus, any reduction in sentence granted on account of the accused's guilty plea would always remain subject to the public interest exception (see *Fu Foo Tong and others v PP* [1995] 1 SLR(R) 1 at [13]; *Terence Ng* at [71]). According to the Court of Appeal in *Terence Ng* (at [71]), this would mean that:

> … in cases that were especially grave and heinous, the sentencing considerations of retribution, general deterrence and the protection of the public would inevitably assume great importance, and these cannot be significantly displaced merely because the accused had decided to plead guilty. …

50 Consistent with the above principle, as the High Court in *Iskandar bin Jinan* pointed out (at [59]), the *Sentencing Guidelines* expressly preserves the court's discretion not to apply the *Sentencing Guidelines* in cases where their application would not be in the public interest, and to give instead a reduction which is just and proportionate in the circumstances of the case.

51 Third, the court should generally consider the full spectrum of possible sentences in arriving at the appropriate sentence (see *Vasentha* at [46]; *Suventher Shanmugam* at [26]). In this regard, the observations of Chao Hick Tin JA in *Ong Chee Eng v PP* [2012] 3 SLR 776 at [24] are particularly apposite:

> Ultimately, where Parliament has enacted a range of possible sentences, it is the duty of the court to ensure that the full spectrum is carefully explored in determining the appropriate sentence. Where benchmarks harden into rigid formulae which suggest that only a segment of the possible sentencing range should be applied by the court, there is a risk that the court might inadvertently usurp the legislative function.

52 To give effect to Parliamentary intent, therefore, the applicable sentencing framework should not have the effect of unduly fettering the maximum sentence that a court may impose on an accused in an appropriate case, even if the accused has chosen to plead guilty. Likewise, the application of a sentencing framework should not result in a clustering of sentences around a particular term of imprisonment.

53 In this connection, it is trite that sentencing guidelines and frameworks are not cast in stone, nor do they represent an abdication of the judicial prerogative to tailor criminal sanctions to the individual offender (*Abu Syeed Chowdhury v PP* [2002] 1 SLR(R) 182 at [15]). They are not meant to "yield a mathematically perfect graph that identifies a precise point for the sentencing court to arrive at in each case", but are instead intended to "guide the court towards the appropriate sentence in each case using a methodology that is broadly consistent" (*Mohd Akebal* at [20(b)]; *PP v Wong Chee Meng and another appeal* [2020] 5 SLR 807 at [57]). As the High Court put it succinctly in *Sue Chang v PP* [2023] 3 SLR 440 (at [45]), a good sentencing framework aims (a) to be instructive (without being prescriptive); (b) to be communicative; and (c) to deliver consistent outcomes.

(3) My observations on the Prosecution's proposed framework

54 Bearing the above principles in mind, I was in broad agreement with the Prosecution's proposed sentencing framework for drug trafficking and importation cases. I elaborate.

55 First, the Prosecution made the point in its further written submissions that with a maximum reduction of 15%, there was a risk of imprisonment terms in the more egregious of such cases "clustering" around the 25-year mark, with lower imprisonment terms for less serious cases. In this connection, the focus is

on those trafficking and importation cases where the drug amounts fall just below the capital threshold – usually due to the Prosecution amending the charge from a capital to a non-capital charge (as is the case for the bulk of the trafficking and importation cases which come before the High Court for plead-guilty mentions).

56 To substantiate its point, the Prosecution tendered a detailed analysis of the trafficking and importation cases which had come before the courts subsequent to *Iskandar bin Jinan*.[26] Having reviewed the Prosecution's analysis of post-*Sentencing Guidelines* cases (which I reproduce in these grounds of decision as Annex 2: Post-Sentencing *Guidelines* cases), I accepted the Prosecution's submission. By way of illustration, I summarise below some of the cases referenced by the Prosecution.

57 In *PP v Imran bin Mohd Arip* (HC/CC 15/2024), for example, the accused Imran pleaded guilty to a charge of abetment by conspiracy with one Tamilselvam to traffic in not less than 14.99g of diamorphine under s 5(1)(a) read with s 12 and punishable under s 33(1) of the MDA. The accused was described by the Prosecution as being an offender of higher culpability, because of his "active involvement in the drug trade on a commercial scale": *inter alia*, he had been trafficking in diamorphine for at least four months prior to his arrest, making a profit of $250 to $300 per pound of diamorphine; and he had consented to another charge of trafficking in not less than 12.97g of diamorphine being taken into consideration. The Prosecution, citing *Iskandar bin Jinan*, submitted that there should be a 15% reduction in sentence for the accused's plea of guilt and a resultant sentence of "at least 25 years' imprisonment". The High Court imposed a sentence of 25 years' imprisonment.

[26] PFSS at Annex B.

No caning was imposed as the accused was over 50 years of age; and the Prosecution indicated that it would not seek a further imprisonment term in lieu of the 15 strokes of the cane which he would otherwise have been liable for.

58 In *PP v Muhammad Syafiq bin Azman* (HC/CC 55/2023), the accused pleaded guilty to a charge of trafficking in not less than 249.99g of methamphetamine under s 5(1)(a) read with s 5(2) and punishable under s 33(1) of the MDA. In its written submissions, the Prosecution highlighted that while the accused had pleaded guilty and also cooperated with the authorities, the evidence showed that he had been selling drugs for at least ten months prior to his arrest; and that the "scale of his drug enterprise grew with time, eventually culminating in the creation of a Telegram channel and an established clientele". In addition to running his own drug enterprise, he had also been actively involved in the drug enterprise of two other individuals, essentially helping them to collect drug consignments and repack these for sale in exchange for cheaper drugs. He had also taken active steps to avoid detection by the authorities; *eg* by arranging to collect drug consignments in a vacant unit neighbouring his and by renting hideouts and changing them every few weeks. Again citing *Iskandar bin Jinan*, the Prosecution proposed a reduction of 15% on account of the accused's guilty plea and submitted for a sentence of 25 years and six months (with 15 strokes of the cane). The accused was sentenced to 25 years' imprisonment and 15 strokes of the cane.

59 In *PP v Mohammad Idris s/o Zainal Abidin* (HC/CC 42/2023), the accused pleaded guilty to a charge of trafficking in not less than 249.99g of methamphetamine under s 5(1)(a) read with s 5(2) and punishable under s 33(1) of the MDA, with another charge under s 9 of the MDA taken into consideration. He had antecedents for drug possession and consumption offences. In its written submissions, the Prosecution noted that the accused's

culpability was "not low" as he was "not just a courier but was a trafficker": he procured his supply of drugs from different suppliers and had his own customer base comprising friends and customers referred to him by one of his suppliers. In submitting for a sentence of 25 years and six months (with 15 strokes of the cane), the Prosecution stated that this was derived from applying a 15% reduction in sentence, *per Iskandar bin Jinan*. The accused was sentenced to 25 years and six months' imprisonment and 15 strokes of the cane, with an additional enhanced sentence of 315 days' imprisonment pursuant to s 50T of the Prisons Act (Cap 247, 2000 Rev Ed).

60 In *PP v Chua Jun Hao* (HC/CC 53/2023), the accused pleaded guilty to a charge of attempting to traffic in not less than 249.99g of methamphetamine under s 5(1)(a) read with s 12 and punishable under s 33(1) MDA. He had acted with another accused, one Low En Quan Justin, who pleaded guilty to a similar charge on a later occasion (see [61] below). In *PP v Chua Jun Hao*, it was submitted that the accused had made some attempt to evade detection, although this apparently only involved his using gloves while repacking items which he believed to be methamphetamine. On the whole, the Prosecution acknowledged that the accused's culpability was "lowered on account of his limited role as a courier and acting on the direction of a third party". The accused was 20 years old at the time of offending. He pleaded guilty some six-odd months after the original capital charge was amended. However, the Prosecution noted that his decision to plead guilty came before the introduction of the *Sentencing Guidelines* and submitted that he should therefore still receive "the maximum reduction of 15% for his plea of guilt" *per Iskandar bin Jinan*. This, according to the Prosecution, translated to an imprisonment term of 23 to 24 years' imprisonment (with 15 strokes of the cane). The eventual sentence imposed by the court was 23 years' imprisonment with 15 strokes of the cane.

61 *PP v Low En Quan Justin* (HC/CC 25/2024) involved the co-accused of Chua Jun Hao. This accused Low – who was a year older than Chua – also pleaded guilty to a charge of attempting to traffic in not less than 249.99g of methamphetamine; and the Prosecution submitted that there was "no material difference in the co-accused persons' degree of responsibility". Low, however, had pleaded guilty a year after the original capital charge against him was amended and four months after the introduction of the *Sentencing Guidelines*. As such, the Prosecution submitted that his case should be regarded as falling under Stage 2 of the *Sentencing Guidelines* and that he should be accorded no more than a 10% reduction in sentence for his plea of guilt. This would have yielded a sentence of around 24 years' imprisonment with 15 strokes of the cane – but in the event, the court imposed a sentence of 22 years and six months' imprisonment and 15 strokes of the cane.

62 I make three points about the post-*Sentencing Guidelines* cases collated and analysed by the Prosecution. First, the Prosecution tendered written submissions in each of these cases, seeking the application of a 15% reduction (and in *PP v Low En Quan Justin*, 10%) in line with the approach adopted in *Iskandar bin Jinan.* Second, no appeals were filed in these cases. Third, no written grounds of decision were issued by the sentencing court in each of these cases, so it is not known whether the sentencing courts accepted the Prosecution's proposal of a maximum 15% reduction on the basis of *Iskandar bin Jinan.* Nevertheless, the records do show that in each case, the imprisonment term imposed was equivalent to or slightly lower than the term derived by the Prosecution on an application of the maximum reductions established in *Iskandar bin Jinan.* The imprisonment terms imposed in these cases tended to hover around the 25-year mark for the more serious cases, with lower imprisonment terms of 23 years or less for the less serious cases. Empirically,

in other words, there appeared to be some evidence to bear out the Prosecution's concerns about a potential "clustering effect" forming over time.

63 Any "clustering effect" is, in principle, eschewed by the courts, firstly, because it may lead to sentences which are not proportionate to the overall harm wrought by a given offence and the culpability of the individual offender; and secondly, because it may not take into account the full spectrum of sentences prescribed by the legislature to reflect the strong deterrent stance taken against drug offences (*Suventher Shanmugam* at [26]).

64 In its further submissions, the Prosecution also compared the sentences imposed in post-*Sentencing Guidelines* cases of drug trafficking and importation with those seen in pre-*Sentencing Guidelines* precedents, which tended to feature imprisonment terms ranging from 24 to 28 years (see Annex 1: Pre-Sentencing *Guidelines* cases).[27] In *Murugesan a/l Arumugam v PP* [2021] SGCA 32 ("*Murugesan (CA)*"), for example, the accused pleaded guilty to a charge of trafficking in not less than 14.99g of diamorphine. His culpability was noted by the sentencing judge to be "low", as he had acted as a mere courier on the instructions of another person (see *Murugesan (HC)* at [22]); and there were no aggravating factors (*Murugesan (CA)* at [9]). His sentence of 25 years' imprisonment and 15 strokes of the cane was upheld by the Court of Appeal.

65 In *Vashan*, the accused pleaded guilty to a charge of importing into Singapore not less than 14.99g of diamorphine under s 7 of the MDA. It was not disputed that he had played a limited role as a courier, pursuant to another's directions. The sentencing court also found that this limited role, together with

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[27] PFSS at Annex A.

his early plea of guilt and substantial cooperation with the authorities, merited a "significant downward calibration" of the sentence to 25 years' imprisonment (with 15 strokes of the cane). The accused's appeal against sentence was dismissed by the Court of Appeal.

66 In *PP v Muhammad Hakam bin Sulaiman* [2022] SGHC 160 ("*Muhammad Hakam*"), the accused pleaded guilty to a charge of trafficking not less than 499.99g of cannabis, with a charge of drug possession taken into consideration. The sentencing court assessed his culpability to be "on the lower end of the scale", as his role had not gone beyond two acts of transferring the cannabis in question; and he had not been motivated by financial gain but had instead acted "out of naivete arising from a misplaced sense of friendship and loyalty" (at [31]–[32]). Aside from the charges taken into consideration, the only other aggravating factor was the fact that the accused had in 2017 been placed on drug supervision, but there was no evidence that he was a drug addict at the time of the offence. The court found (at [34]) that the two aggravating factors were "outweighed by two key mitigating factors" – the accused's early plea of guilt and cooperation with the authorities – and further took into consideration that he was only 21 years old at the time of the offence (at [41]). For these reasons, the court imposed a sentence of 24 years' imprisonment and 15 strokes of the cane.

67 In *Adri Anton Kalangie v PP* [2018] 2 SLR 557, the accused pleaded guilty to a charge of importation of not less than 249.99g of methamphetamine under s 7 MDA. The Court of Appeal held (at [82]) that an aggravating factor in that case was the accused's conduct in taking "active and sophisticated steps to avoid detection of the offence by ingesting the drug pellets and inserting them into his body". On the other hand, there were multiple mitigating factors: namely, the accused's voluntary confession (which the Court of Appeal found

"highly significant"); his cooperation with the authorities; and his early plea of guilt (at [83]). In the event, the Court of Appeal found that the sentence of 25 years' imprisonment and 15 strokes of the cane imposed by the High Court was unimpeachable and not manifestly excessive (at [85]).

68 It would appear that in the pre-*Sentencing Guidelines* precedents, imprisonment terms imposed on accused persons who had played limited roles and/or whose cases featured significant mitigating factors tended to hover close to or at the 25-year mark (such as those elaborated upon at [65]–[67] above); whereas higher imprisonment terms of 26 to 28 years were seen in cases where the accused's culpability was greater and/or where there were multiple aggravating factors (which I elaborate upon at [69]–[72] below). To this extent, therefore, I would respectfully differ from the conclusion of the High Court in *Iskandar bin Jinan* that "in recent years, in respect of first-time offenders, where the weight of the drugs involved was close to the death penalty threshold, the *general trend* was for a sentence of around 25 years to be imposed after taking into account the plea of guilty and other mitigating factors" [emphasis added] (at [48]).

69 In *Muhammad Amirul Aliff bin Md Zainal v PP* [2021] 2 SLR 299, for example, the accused Muhammad Amirul and his two co-accused pleaded guilty to a charge of importing not less than 499.9g of cannabis. The statement of facts revealed that the accused was a member of a Malaysian-based drug syndicate. He was also the coordinator of the drug venture and had given various instructions to his two co-accused regarding the drug venture. Further, he had received payment for his role and had prior drug offences. His sentence of 27 years' imprisonment and 15 strokes of the cane was upheld by the Court of Appeal.

70 In *PP v Steven John a/l Gobalkrishnan* [2021] SGHC 111, the accused pleaded guilty to a charge of trafficking in not less than 14.99g of diamorphine. While the sentencing court found that the accused had cooperated with the authorities by implicating his co-accused, the court also noted that he was not a mere courier with limited involvement: instead, he had agreed to help one Sugu to source for customers who wanted diamorphine, to repack the drugs, and to deliver them to the customers. He was paid $500 for every 60 packets of diamorphine delivered and would actively source for customers without relying on Sugu to provide contacts. The court accepted the Prosecution's submission that the accused's culpability was high and sentenced him to 27 years' imprisonment with 15 strokes of the cane. The accused's appeal against sentence was dismissed.

71 As another example, in *PP v Poopathi Chinaiyah s/o Paliandi* [2020] 5 SLR 734 ("*Poopathi Chinaiyah*"), the accused pleaded guilty to a charge of trafficking in not less than 499.99g of cannabis (the 1st Charge) as well as a charge of trafficking in not less than 8.21g of diamorphine and a charge involving cannabis possession (the 2nd and 4th Charges respectively). He was liable to enhanced punishment under s 33(4A)(*i*) of the MDA in respect of the latter two charges as he had similar antecedents (the 3rd Charge). Another charge of trafficking methamphetamine was taken into consideration. In respect of the 1st Charge, the sentencing court found the accused's culpability to be moderate: although his role was to receive, store and deliver drug consignments, and thus a larger role than that of a mere courier, he did not exercise any executive functions and acted under another's directions. As for the aggravating factors relevant to this charge, the court took into account his previous convictions for trafficking in cannabis and the fact that a similar charge (the 3rd Charge) was taken into consideration. The court also accepted the Prosecution's submission that little weight should be accorded to the plea of guilt in light of

the accused having been caught red-handed with the drugs, but his cooperation with the authorities was a mitigating factor. On appeal, the imprisonment term of 28 years' imprisonment was upheld by the Court of Appeal.

72 In *PP v Mohamed Affandi bin Mohamed Yuz Al-Haj* [2021] SGHC 151, the accused pleaded guilty to a charge of conspiracy to traffic in not less than 14.99g of diamorphine. Nine charges under the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Cap 65A, 2000 Rev Ed) were taken into consideration. The sentencing court held that the accused's culpability was high, as he had performed multiple roles in the criminal activity, not just transferring drugs but also repacking them, collecting payment from drug customers, and remitting drug payment monies overseas. The activity was not one-off as it had been ongoing for some time, with the accused being paid a "not negligible" amount of money. There were no mitigating factors save for the plea of guilt, which in the court's view "had some mitigating effect on the sentence, but it did not lead to a substantial reduction" (at [18]). In the event, the accused was sentenced to 28 years' imprisonment (he was exempt from caning due to his age); and his appeal against sentence was dismissed.

73 In sum, comparing the sentences in post-*Sentencing Guidelines* trafficking and importation cases with those imposed in pre-*Sentencing Guidelines*, there seems to be some empirical basis for the Prosecution's submission that a maximum reduction of 15% for guilty pleas may eventually lead to imprisonment terms in cases involving multiple aggravating factors and/or offenders with higher culpability moving downwards to cluster around 25 years.[28] This would be contrary to the stated objective of the *Sentencing Guidelines*, which was to provide for greater clarity and transparency as to the

[28] PFSS at paras 6–7.

discount afforded to guilty pleas, without resulting in reductions in sentences "over and above the existing judicial guidelines or precedents in cases where offenders have pleaded guilty" (*Hansard on the Sentencing Guidelines* at Question 28).

74 For the reasons explained above, I accepted the Prosecution's submission that while the three-step analytical framework under the *Sentencing Guidelines* was applicable in drug trafficking and importation cases, the maximum sentence reduction in cases where the accused had pleaded guilty at Stage 1 should be 10%.

75 In a case of trafficking or importation of cannabis such as the present, the results of applying a 10% maximum reduction at Step 1 of the *Sentencing Guidelines* are illustrated in the following table. For comparative purposes, the table includes a column showing the results of applying a 15% maximum reduction:

Weight of cannabis	**Indicative starting sentence (*for first-time offender*)**	**Sentence after applying 10% reduction**	**Sentence after applying 15% reduction**
		Assuming no other aggravating or mitigating circumstances	
Prescribed sentencing range: 5 to 20 years' imprisonment[29]			
Up to 99g	5 to 6 years	5 years to 5 years 5 months	5 years to 5 years 1 month

[29] The indicative starting sentences for this prescribed sentencing range are set out in the District Court's decision in *PP v Sivasangaran s/o Sivaperumal* [2016] SGDC 214, which was cited with approval by the Court of Appeal in *Suventher Shanmugam* (at [28]).

99g to 165g	6 to 7 years	5 years 5 months to 6 years 4 months	5 years 1 month to 6 years
165g to 231g	7 to 8 years	6 years 4 months to 7 years 2 months	6 years to 6 years 10 months
231g to 264g	8 to 9 years	7 years 2 months to 8 years 1 month	6 years 10 months to 7 years 8 months
264g to 297g	10 to 13 years	9 years to 11 years 8 months	8 years 6 months to 11 years
297g to 329.99g	13 to 15 years	11 years 8 months to 13 years 6 months	11 years to 12 years 9 months
Maximum sentence	Up to 20 years	Up to 18 years	Up to 17 years
Prescribed sentencing range: 20 to 30 years' or life imprisonment			
330g to 380g	20 to 22 years	20 years	20 years
381g to 430g	23 to 25 years	20 years 8 months to 22 years 6 months	20 years to 21 years 3 months
431g to 499.99g	26 to 29 years	23 years 5 months to 26 years 1 month	22 years 1 month to 24 years 8 months
Maximum sentence	Up to 30 years	Up to 27 years	Up to 25 years 6 months

76 For trafficking and importation cases where the drug amount is just below the capital threshold, the indicative starting sentence would usually be 29 years because of the quantity of drugs involved. Based on the above table, as the Prosecution has pointed out, offenders of greater culpability would in most

cases not receive any downward adjustment from this indicative starting point; and applying a maximum reduction of 10%, their imprisonment terms should be around 26 to 27 years.[30] For offenders of lower culpability, on the other hand, the indicative starting sentence of 29 years would likely be adjusted downwards to 27 or 28 years; and a maximum 10% reduction on account of their guilty pleas would likely bring the eventual sentence into the range of 24 to 25 years. This would make for a wider sentencing range of between 24 and 27 years' imprisonment in trafficking and importation cases involving drug amounts just below the capital threshold, and would accordingly enable a sentencing court to calibrate more effectively the sentences imposed in accordance with the accused's culpability and the gravity of his offence. As the Prosecution observed in its further submissions, sentences imposed within these parameters should also be more consistent with established pre-*Sentencing Guidelines* precedents.[31] At the same time, the risk of the "cliff effect" highlighted by the High Court in *Iskandar bin Jinan* should be reduced as well, since the application of a 10% maximum reduction (compared to 15%) should reduce the discrepancy between the mandatory minimum imprisonment term of 20 years for an offence of trafficking or importing 330g of cannabis and the likely sentence for trafficking or importing 329.99g of cannabis.

77 In accepting the Prosecution's submission for a maximum reduction of 10% at Stage 1, I also accepted their suggestion that a *maximum* reduction of 5% could be adopted for pleas of guilt entered at the later stages of proceedings (Stages 2, 3 and 4), so as to make for greater clarity and transparency in the courts' sentencing approach.[32]

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30 PFSS at para 22.

31 PFSS at para 22.

32 PFSS at para 24.

78 Further, I also accepted the Prosecution's submission that the sentencing court should generally apply a reduction near the maximum reduction applicable at a given stage, subject to the following two caveats:

(a) *ceteris paribus*, an offender who pleads guilty at an earlier phase of court proceedings than the other (even within the same stage of the *Sentencing Guidelines*) should receive a larger reduction compared to one who pleads guilty at a later phase; and

(b) the courts should apply a reduction lower than the maximum that applies to any given stage under the *Sentencing Guidelines* where the unreasonable conduct of an offender results in protracted or delayed plead guilty proceedings.

79 My reasons for agreeing with the Prosecution that the sentencing court should *generally* apply a reduction near the maximum reduction applicable were as follows.

80 First, by way of general principle, as the High Court in *Iskandar bin Jinan* noted (at [11], citing the Court of Appeal's decision in *Terence Ng*), there are three reasons why a court might reduce a sentence on account of a plea of guilt: because a plea of guilt signifies genuine remorse on the accused's part; because it spares victims the ordeal of testifying; and because it saves the State resources which would otherwise have been expended on a trial.

81 On the other hand, these three reasons will not (and are not intended to) assist the court in determining the *degree* of reduction to be given on account of an accused's guilty plea. This is particularly so in the context of drug trafficking and importation cases because in such cases, there will usually be little (apart

from the conduct of the accused) to distinguish the value of a guilty plea in one case from that of a guilty plea in another case. For one, the fact that a guilty plea spares the victim the ordeal of having to testify and to re-live the incident, is usually irrelevant in a crime committed against society at large (as opposed to a specific victim), such as drug trafficking and importation. This justification is more commonly invoked in the context of sexual offences, where the trauma suffered by the victims would often be amplified if they were required to recount the incident in court (*Chang Kar Meng v PP* [2017] 2 SLR 68 at [47]).

82 As to the extent to which a plea of guilt saves public resources, this would largely be a function of how early an accused elects to pleads guilty, and is a factor that has largely been taken into account in the gradated approach adopted by the *Sentencing Guidelines*. For accused persons whose unreasonable conduct results in unnecessarily protracted and delayed plead guilty proceedings, such conduct would be a factor that the sentencing judge could consider when assessing the mitigatory weight of the guilty plea. Beyond this, however, a detailed dissection of the precise amount of public resources actually saved in a given case would not ordinarily be warranted, as it may be entirely fortuitous – and out of the accused's control – whether the amount of public resources saved is substantial or *de minimis*.

83 As for the extent to which a guilty plea represents genuine remorse on the part of the accused, I make the point firstly that it is not always easy for the sentencing court to discern when a plea of guilt is indicative of genuine remorse. In *Angliss Singapore Pte Ltd v PP* [2006] 4 SLR(R) 653, the High Court (at [76]) set out some circumstances which the sentencing court may take into account in assessing whether the plea of guilt is indicative of remorse. These include:

> … the perception that the offence was not committed wilfully but rather on the spur of the moment, by accident or through foolish neglect, the fact that the offender offers restitution or attempts to rectify the situation after being apprised of his offence, the rapidity with which he offers restitution or takes remedial steps, and the willingness of the offender in co-operating with the relevant authorities …

84 It is in this connection that the courts have, in the past, accorded no weight to a plea of guilt where the offender is caught red-handed (see for example the case of *Poopathi Chinaiyah*, discussed above at [71]). These ambient circumstances serve as useful objective barometers to help the court determine whether an accused person's plea of guilt is demonstrative of remorse, without which the court is left to rely on entirely *subjective* expressions of remorse. Under the *Sentencing Guidelines* (at para 8), however, the approach taken is that:

> (a) factors demonstrating the accused's remorse in other ways apart from pleading guilty (*eg*, offering restitution and co-operation with authorities) should be taken into account at Step 1 of the framework, and
>
> (b) the strength of the evidence against the accused should not be taken into account when determining the level of reduction in sentence at Step 3 of the framework.

85 The above provisions in the *Sentencing Guidelines* would appear to reflect a general shift in the sentencing practices of the courts in terms of according mitigatory weight to pleas of guilt even where the accused is caught red-handed – a shift which, as the Prosecution noted in oral submissions, appears to be confirmed by the recent decision of the three-judge High Court in *Randy Rosigit* at [68]. This may be especially pertinent in the context of drug trafficking and importation cases, a good number of which feature accused

persons caught red-handed with the drugs (see for example, *Vashan* at [20], *PP v Muhammad Rais bin Abdul Rashid* [2022] SGHC 99 at [25]).

86 Given the above considerations, I accepted the Prosecution's submission that while the court's discretion to determine the reduction to be given for a plea of guilt is not fettered by the *Sentencing Guidelines* and while the reductions provided for the relevant stages are clearly expressed as the *maximum* to be considered, it would be conducive to greater transparency and predictability for accused persons if the courts were generally to award a reduction near to the maximum at each stage. This general principle should be subject to the two stated caveats, as these two caveats encapsulate one of the chief guiding principles of the *Sentencing Guidelines*: namely, that earlier pleas of guilt result in greater benefits for victims, witnesses, and the State, and should be met with larger reductions in sentence.

87 The final point about the Prosecution's proposed framework which I should address concerns the fact that the mitigatory weight of an accused's plea of guilt is still considered *after* the other mitigating factors (*eg* cooperation with the authorities) have been considered. As the Prosecution itself acknowledged, this may result in a disproportionate amount of weight being given to the accused's plea of guilt as a sentencing consideration in some cases. This problem would be particularly acute in drug trafficking and importation cases involving (*inter alia*) a quantity of drugs just shy of the capital threshold, an offender of high culpability, and the presence of multiple aggravating factors. While the court would be entitled in such cases to calibrate the indicative starting sentence upwards to the statutory maximum of 30 years' imprisonment to take into account the higher culpability of the accused and other aggravating factors, such an uplift would represent a mere 3% (1 year) increase from the indicative starting sentence of 29 years, which would potentially be

overshadowed by the subsequent discount of 10% (3 years) accorded on account of an early plea of guilt.

88 The Prosecution suggested two alternative solutions to this conundrum: either the sentencing court could invoke the exception in paragraph 13(b) of the *Sentencing Guidelines*, such that the court disapplies the *Sentencing Guidelines* in favour of a "just and proportionate" reduction where it would be in the public interest to do so; or alternatively, the court could exercise its discretion to apply a reduction lower than the applicable maximum on account of the egregiousness of the offence.

89 I rejected the second of the above suggestions. In my view, such a course of action risked some double counting, because it would involve taking the aggravating factors into account at both Step 1 and Step 3 of the proposed framework. If the aggravating factors have fully been taken into account at Step 1 of the sentencing analysis, it should generally not feature again at another stage (see *PP v Raveen Balakrishnan* [2018] 5 SLR 799 at [87]). For this reason, I concluded that the first suggestion – *ie*, that the court invoke the public interest exception in paragraph 13(b) of the *Sentencing Guidelines* – made for a more principled solution.

90 Indeed, as a matter of general principle, the question of whether the court should exercise its discretion to invoke the public interest exception is one which should be asked in every case to ensure that the court's discretion is being applied in a systematic and principled manner. In other words, after deriving the appropriate sentence from an application of the modified three-step framework of the *Sentencing Guidelines*, the court should consider if the sentence thus arrived at is proportionate to the overall criminality of the case. This would involve taking a broad-brush "last look" at all the facts and circumstances of the

case to ensure that the final sentence is one that fits both the crime and the offender. A similar process is already adopted when the court determines the appropriate aggregate sentence in cases involving multiple offences (see *Gan Chai Bee Anne v PP* [2019] 4 SLR 838 at [18]–[22]).

91 If the court finds that applying the recommended 10% maximum reduction results in a sentence that is disproportionately lenient on the accused, having regard to the overall criminality of the case, then it would be in the public interest to apply a smaller reduction (or even no reduction in an appropriate case) on account of the accused's plea of guilt. This would ensure that the 10% maximum sentence reduction recommended for drug trafficking and importation cases does not operate as a fetter on the court's powers to impose up to the maximum imprisonment term of 30 years or life imprisonment in a deserving case – even where the accused person pleads guilty.

(4) My observations on the Defence's submissions

92 At this juncture, I should also address the Defence's oral submissions on the general applicability and utility of sentencing frameworks and guidelines, as well as their oral submissions regarding the mandatory minimum sentences prescribed under the MDA.

93 First, as I alluded to earlier (at [53]), sentencing frameworks and guidelines aim to strike a balance between preserving the flexibility of sentencing judges to deliver individualised justice while providing a clear structure to guide the exercise of their sentencing discretion (see generally, Chao Hick Tin JA, "The Art of Sentencing – An Appellate Court's Perspective", *Sentencing Conference 2014: Trends, Tools & Technology* at paras 12–13). Such frameworks and guidelines are not meant to operate rigidly regardless of the circumstances of the case at hand. Rather, they are useful tools which assist

the courts, the defence and the prosecution in evaluating their positions, by creating greater transparency in the sentencing process and encouraging consistency of practice. Thus, the Court of Appeal in *Suventher Shanmugam* cautioned that the indicative starting sentences derived from the weight of the drugs trafficked or imported "should obviously not be applied mechanistically without regard to the precise circumstances of each case" (at [30]). There was no basis, therefore, for the Defence's stated concern that the application of sentencing frameworks and guidelines would result in a fettering of judicial discretion.

94 Second, as to the mandatory minimum sentences prescribed under the MDA, it bears reiterating that the power to prescribe punishments for offences is part of the legislative power and not the judicial power. As such, Parliament may determine the scope of the courts' sentencing power through the legislative scheme that it prescribes, and it may do so *inter alia* by specifying mandatory minimum or maximum sentences. It is the duty of the courts to inflict the legislatively-prescribed punishments on offenders, exercising such discretion as may have been given to them by the Legislature to select the punishments which they think appropriate (see *Mohammad Faizal bin Sabtu v PP* [2012] 4 SLR 947 at [45]; *Prabagaran a/l Srivijayan v PP and other matters* [2017] 1 SLR 173 at [60]; and Sundaresh Menon CJ, "Sentencing Discretion: The Past, Present and Future", *Sentencing Conference 2022: Sentencing Frameworks* at paras 11–13). Mandatory minimum imprisonment terms therefore do not create an impermissible fetter on the court's discretion to impose sentences on accused persons.

95 Third, while it is true that the punishments prescribed under the Second Schedule of the MDA are tied directly to the quantity of the drugs trafficked or imported, the legislative scheme provides for a *range* of quantities which fall

within an applicable sentencing band (*eg*, a sentence of 20 to 30 years' imprisonment for trafficking or importing not less than 330 grammes and not more than 499.99 grammes of cannabis). It was therefore incorrect for the Defence to submit that factoring in the weight of the drugs would ignore the statutory minimum and maximum sentences provided by the law. As the Court of Appeal in *Suventher Shanmugam* noted (at [22]):

> It follows that a person charged for unauthorised importation of 499.99g of cannabis is regarded as one who can cause greater harm to society than one who imports 330g and should, all things being equal, be given a sentence at the higher end of the sentencing range to reflect the relative gravity of the offence. … Since the number of strokes of caning is fixed, the only way to distinguish between the culpability of two persons importing different amounts of cannabis would be in the length of the imprisonment term.

96 Fourth, the Defence's submission that the *Sentencing Guidelines* would create a perverse incentive for an accused person to plead guilty was *ex facie* untenable in view of paragraph 5 of the *Sentencing Guidelines*, which states:

> These guidelines ***are not meant to encourage accused persons to plead guilty***. It is the right of every accused person to assert his innocence and claim trial. Even before the introduction of these guidelines, accused persons can, in appropriate cases, receive a reduction in sentence if they plead guilty. [emphasis added]

97 The *Sentencing Guidelines* do not in any way take away from an accused the freedom to come to his own decision on whether or not to accept a plea offer. The framework of sentence reductions provided under the *Sentencing Guidelines* is but one factor that an accused person will consider and evaluate along with a multitude of other factors including, *inter alia*, the strength of the evidence against the accused, and the availability of any defences.

98 Finally, as I pointed out to counsel in the course of his oral submissions, in so far as the Defence was urging me to disapply the *Vasentha-Suventher*

framework, this was a non-starter since I was bound by the Court of Appeal's decision in *Suventher Shanmugam.*

99 For the reasons set out above, I rejected the Defence's argument that the court in this case should decline to apply the *Vasentha-Suventher* framework and/or the *Sentencing Guidelines*.

(5) Summary on the applicable framework

100 To sum up, therefore: after considering and broadly agreeing with the further submissions made by the Prosecution, I concluded that the following steps should be taken in sentencing a first-time offender who pleads guilty to trafficking or importing a quantity of drugs just below the capital threshold:

(a) At Step 1, the court determines the sentence that it would have imposed if the accused person had been convicted after trial. This involves an application of the *Vasentha-Suventher* framework, modified so as to exclude consideration at this stage of factors related to the accused person's plea of guilt. This would involve:

(i) Identifying the indicative stating point based on the quantity of drugs imported or trafficked. For cases with drug amounts just shy of the capital threshold, the indicative starting sentence would be 29 years' imprisonment.

(ii) Adjusting the starting point upwards or downwards based on (a) the accused person's culpability; and (b) the presence of relevant aggravating factors or mitigating factors, except for the accused's plea of guilt and factors related to it. If the accused has demonstrated remorse in ways apart from the

plea of guilt, the court may consider this as a mitigating factor in Step 1.

(b) At Step 2, the court determines the applicable stage of proceedings in which the accused person had pleaded guilty.

(c) At Step 3, the court applies an appropriate reduction to the sentence determined in Step 1, to arrive at the sentence for each charge. The court should generally grant a reduction near the applicable maximum of 10% (subject to smaller reductions on account of (a) later pleas of guilt (as determined in Stage 2), and (b) the accused's unreasonable behaviour), and should not take into account the strength of the evidence against the accused.

(d) After arriving at an appropriate sentence, the court should take a broad-brush "last look" at all the facts and circumstances of the case to ensure that the final sentence is one that is proportionate to the overall criminality of the case. If it is disproportionate to the overall criminality of the case, the court is entitled (by virtue of paragraph 13(b) of the *Sentencing Guidelines*) to apply a reduction in sentence which is just and proportionate.

Application of the modified framework to the present case

The parties' submissions

101 I next address the application of the above framework to the present case.

The Prosecution's submissions

102 The Prosecution submitted that the indicative starting sentence in this case should be 29 years' imprisonment as the Accused had been caught importing 499.99g of cannabis.[33]

103 As for the Accused's culpability, the Prosecution submitted that this was on the low to moderate end. On the one hand, the Accused's role was limited to that of a courier of the drugs on behalf of another individual ("Auction Power"). On the other hand, the Accused did not play a completely passive role in the importation of the drugs. In fact, it was the Accused who initiated the transaction on the day in question, in that he was the one who proactively informed Auction Power of his pending lorry trip and who made arrangements with "Auction Power" to import the cannabis into Singapore. The Prosecution submitted that a downward calibration of 1 year (*ie*, from 29 to 28 years' imprisonment) would be appropriate.[34]

104 Turning to Steps 2 and 3 of the modified framework, the Prosecution submitted that as the Accused had pleaded guilty to the amended charge at the first available opportunity, and the amended charge had a material bearing on the sentence faced by the Accused, it would be appropriate to grant the Accused the maximum reduction of 10%.[35] This would result in an imprisonment term of about 25 years' imprisonment. In oral submissions before me, the Prosecution stated that as it had in its earlier set of written submissions sought an imprisonment term of 24 to 25 years, it would not resile from that earlier position.

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33 PSS at para 9.

34 PSS at paras 10–11.

35 PSS at para 25; PFSS at para 38.

The Defence's submissions and mitigation plea

105 As noted earlier, the Defence eschewed the application of the *Vasentha-Suventher* framework and/or the *Sentencing Guidelines* in this case. Instead, the Defence submitted that a sentence of 21 years' imprisonment and the mandatory 15 strokes of the cane would be appropriate. According to the Defence, the accused's culpability was low, as he had played a limited role as a courier, was not involved in directing or organising the drug trade on a commercial scale, and did not involve others in the importation.[36] He also did not take active steps to avoid detection of the offence and had even assisted in the search of the Lorry.[37] This was the first time the Accused had been convicted of drug importation; he was relatively young at the time of offending (24 years old); and he had pleaded guilty at the first available opportunity to the amended charge.[38] He was the sole breadwinner of his family. Since his arrest and remand, he had become very religious and promised to stay on the right side of the law after his release.[39]

My decision

Step 1: the appropriate sentence if the Accused was convicted after trial

106 Applying the proposed modified framework to the present case, the indicative starting sentence at Step 1 should be 29 years' imprisonment. *Per Suventher Shanmugam* (at [29]), where someone has been found trafficking between 431 and 499.99g of cannabis, the starting point is between 26 and 29 years of imprisonment. The present case involved a charge of

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36 Mitigation Plea dated 9 April 2024 ("Plea") at Schedule A, para 5.

37 Plea at Schedule A, para 6.

38 Plea at paras 18, 20, and Schedule A, para 7.

39 Plea at paras 12–15 and Schedule A, para 15.

importing not less than 499.99g of cannabis, which represented the furthest end of the 431-to-499.99-gram bracket. Accordingly, a starting point at the far end of the corresponding sentencing range was warranted. In the case of *Poopathi Chinaiyah*, the High Court (at [25]) held that an indicative starting sentence of 29 years' imprisonment ought to apply where the weight of cannabis imported or trafficked was 499.99g; and this was affirmed on appeal by the Court of Appeal.

107 In respect of the Accused's culpability, I found that this fell within the low-to-moderate end of the spectrum. The Accused's role was essentially that of a courier, although the fact that he took the initiative to liaise with "Auction Power" on his scheduled lorry trip indicated that he was a fairly proactive participant in the criminal activity. There were no aggravating factors, however, which would warrant an uplift of the indicative starting sentence.

108 As for mitigating factors in this case, while this was the Accused's first and only offence, the Court of Appeal has held that the lack of antecedents is no more than the absence of an aggravating factor, which is not mitigating but neutral in the sentencing process (*BPH v PP and another appeal* [2019] 2 SLR 764 at [85]). In similar vein, it is settled law that, except in the most exceptional circumstances, hardship to an offender's family has very little, if any, mitigating value (*Lai Oei Mui Jenny v PP* [1993] 2 SLR(R) 406 at [11]; *PP v Yue Mun Yew Gary* [2013] 1 SLR 39 at [67]–[68]). There was no evidence in this case that the Accused's family had experienced *exceptional* hardship.

109 On the other hand, I accepted the Defence submission that some consideration should be given to the relative youth of the Accused in the calibration of the appropriate imprisonment term. As the Defence pointed out, the Accused still has his whole adult life ahead of him and is keen to rehabilitate

himself. The relative youth of an offender has been taken into account in cases where the offender was aged between 21 and 23 years old at the time of the offences (see *eg*, *PP v Pham Duyen Quyen* [2016] 5 SLR 1289 at [58], affirmed on appeal in *Pham Duyen Quyen v PP* [2017] 2 SLR 571; *Soh Qiu Xia Katty v PP* [2019] 3 SLR 568; and *Muhammad Hakam* at [41]).

110 Weighing the above factors in the balance, I concluded that a 2-year reduction in the indicative starting point of 29 years was warranted. The appropriate sentence in the present case, if the Accused were convicted after trial, would thus be 27 years' imprisonment and 15 strokes of the cane.

Step 2: the applicable stage of proceedings in which the accused pleaded guilty

111 Next, I considered that the Accused had pleaded guilty at the earliest possible opportunity after the charge was amended. Although this only occurred after the court had called for the case for the Prosecution to be filed (but before the commencement of trial), the amendment of the charge at a late stage arose from circumstances beyond the Accused's control and had a material bearing on the sentence that he would have faced: in particular, unlike the original charge, the amended charge would not attract the death penalty. In the circumstances, the present case should be treated as one which fell within Stage 1 of the *Sentencing Guidelines* framework.

Step 3: the appropriate reduction to grant on account of the accused's plea of guilt

112 At Step 3, I found that there was nothing to suggest that the Accused's conduct had resulted in protracted or delayed proceedings, and that as such, it would be fair to apply the maximum 10% reduction to his imprisonment term. This would bring his imprisonment term down from 27 years to a figure

somewhat over 24 years' imprisonment. Having regard to the Prosecution's confirmation that it would stand by its original submission for a term of 24 to 25 years, I rounded this figure down to 24 years.

Proportionality: taking a broad-brushed last look

113 While a sentence of 24 years' imprisonment and 15 strokes of the cane might appear to be a heavy sentence for the relatively youthful Accused, the gravity of drug offences of this nature and the large amount of drugs involved in this case (an amount just shy of the capital threshold) must be kept in mind. Overall, I was satisfied that the sentence was proportionate to the level of criminality involved in this case. Further, having reviewed the existing sentencing precedents, I was satisfied that this sentence was in line with such precedents.

114 Finally, I took into account the time spent by the Accused in remand prior to conviction by backdating the imprisonment term of 24 years to the date of his arrest (20 December 2021).

Conclusion

115 For the reasons explained at [106]–[114], the Accused was sentenced to 24 years' imprisonment and 15 strokes of the cane, with the imprisonment term backdated to the date of his arrest.

Mavis Chionh Sze Chyi
Judge of the High Court

Wong Woon Kwong *SC* and Jheevanesh Sivanathan (Attorney-General's Chambers) for the Prosecution;
Hassan Esa Almenoar (R. Ramason & Almenoar), Rabi Ahmad s/o Abdul Ravoof (I.R.B Law LLP) and Yong Pui Yu Liane (Guardian Law) for the accused.

Annex 1: Pre-*Sentencing Guidelines* cases

S/N	Case Details and Charge(s)	Starting point	Culpability	Aggravating Factors	Mitigating Factors	Imprisonment term imposed
1	*PP v Muhammad Hakam bin Suliman* [2022] SGHC 160 Coram: Ang Cheng Hock J **Proceeded** (PG): 1x s 5(1)(a) r/w s 5(2) MDA (499.99g cannabis) TIC: 1x s 8(a) MDA	29 years (at [30])	Low (at [32]) Limited role of transferring drugs (at [31]) Acted out of naivety arising from misplaced sense of friendship and loyalty (at [32])	TIC possession charge (at [33]) Accused's prior placement on drug supervision (limited weight was placed on this) (at [33])	PG reduction (at [34]) Cooperation with authorities (including provision of information on other persons involved in drug dealings) (at [34]) Both factors above demonstrated remorse (at [34]) Court took into account that the accused was relatively young (21 years old) at the time of offence No mention of red-handed rule	24 years Appeal withdrawn

S/N	Case Details and Charge(s)	Starting point	Culpability	Aggravating Factors	Mitigating Factors	Imprisonment term imposed
2	*Murugesan a/l Arumugam v PP* [2021] SGCA 32 [2020] SGHC 203 Coram: Andrew Phang Boon Leong JCA; Tay Yong Kwang JCA; Quentin Loh JAD Proceeded (PG): 1x s 5(1)(a) MDA (14.99g diamorphine)	29 years (at [8])	Low (at [22] of HC judgment) Minor role: mere courier (at [9] of CA judgment), acting on the instructions of another (at [22] of HC judgment)	None	PG reduction (at [9] of CA judgment) Accused was genuinely remorseful (at [9] of CA judgment; at [24] of HC judgment **Red-handed rule** The court gave weight to the accused's admission of guilt given that the accused was genuinely remorseful, even though the accused was caught red-handed (at [24] of HC judgment)	25 years Sentence upheld on appeal
3	*PP v Yogeswaran Wairan* [2021] SGHC 97 Coram: See Kee Oon J	29 years (at [13])	Low (at [16]) Limited role similar to a courier (at [16]) One-off operation, lacking sophistication (at [16])	None	PG reduction (at [19]) Cooperation (willingness to testify as prosecution witness in trial of co-accused) (at [22])	25 years Appeal against sentence was withdrawn

S/N	Case Details and Charge(s)	Starting point	Culpability	Aggravating Factors	Mitigating Factors	Imprisonment term imposed
	Proceeded (PG): 1x s 5(1)(a) MDA (14.99g diamorphine)		A downward adjustment of 2 years was applied (at [16])		A further downward adjustment of 2 years (at [22]) No mention of red-handed rule	
4	*Muhammad Azmi bin Kamil v PP* [2022] 2 SLR 1432 Coram: Sundaresh Menon CJ, Judith Prakash JCA and Steven Chong JCA Proceeded (PG): 1x s 5(1)(a) r/w s 5(2) MDA (249.99g meth) TIC: s 5(1)(a) MDA (cannabis)	29 years (at [21])	Limited role: courier (at [12])	TIC charge (at [22])	PG reduction (at [22]) Extensive cooperation with authorities (at [22]) No mention of red-handed rule	25 years Sentence upheld on appeal
5	*PP v Vashan a/l K Raman* [2019] SGHC 151	29 years (at [16])	Limited role of a courier who operated under directions	None	PG reduction (at [20])	25 years

S/N	Case Details and Charge(s)	Starting point	Culpability	Aggravating Factors	Mitigating Factors	Imprisonment term imposed
	Coram: Vincent Hoong JC Proceeded (PG): 1x s 7 MDA (14.99g diamorphine)				Substantially co-operated with CNB (at [24]) **Red-Handed Rule** The court gave some weight to the early PG as it resulted in the savings of costs and time. Further, the accused's remorse was also evidenced by his cooperation with the authorities (at [20])	Appeal against sentence was dismissed without written grounds. CA observed that having regard to the large quantity of drugs, the sentence was generous to the appellant.
6	*Adri Anton Kalangie v PP* [2018] 2 SLR 557 Coram: Sundaresh Menon CJ, Andrew Phang Boon Leong JA and Judith Prakash JA	26 to 29 years (at higher end of range) (at [81])	Nothing suggested that the accused had occupied a high position in the supply chain (at [82] and [20(c)(ii)])	Active and sophisticated steps taken to avoid detection (ingested drug pellets and inserted them in his body (at [82])	Voluntarily confessed (at [83]) Cooperated with authorities (at [83]) PG reduction (at [83]) No mention of red-handed rule	25 years Sentence upheld on appeal

S/N	Case Details and Charge(s)	Starting point	Culpability	Aggravating Factors	Mitigating Factors	Imprisonment term imposed
	Proceeded (PG): 1x s 7 MDA (249.99g meth)					
7	*PP v Muhammad Rais bin Abdul Rashid* [2022] SGHC 99 Coram: Valerie Thean J Proceeded (PG): 1x s 7 MDA (249.99g meth)	29 years (at [23])	Limited role of courier who acted under directions (at [22], [25] and [30])	None	PG reduction (at [30]) Some cooperation with authorities (at [30]) No mention of red-handed rule	25 years Appeal against sentence was dismissed without written grounds. CA found that the sentence was not manifestly excessive as all mitigating circumstances had been taken into account.
8	*PP v Hari Krishnan Selvan* [2017] SGHC 168 Coram: Foo Chee Hock JC	25 to 29 years (at [19])	Accused recruited two other persons in this criminal enterprise (at [11] and [19]) Accused took steps to avoid detection of the drugs (at [11] and [19])	None (besides those going to culpability)	PG reduction (at [19]) Cooperation	26 years Appeal against sentence was withdrawn

S/N	Case Details and Charge(s)	Starting point	Culpability	Aggravating Factors	Mitigating Factors	Imprisonment term imposed
	Proceeded (PG): 1x s 5(1)(a) MDA r/w s 34 Penal Code (14.99g diamorphine)					
9	*PP v Muhammad Nur Azam bin Mohamad Indra and another* [2020] 4 SLR 1255 Coram: Aedit Abdullah J Proceeded (PG): 1x s 7 MDA (499.99g cannabis), 1x s 8(b)(ii) MDA (meth consumption)	29 years (at [29])	Accused profited financially (at [35]) Acted under the direction of another (at [31])	TIC charges (at [34])	PG reduction (at [31]) **Red-Handed Rule** The court said that the weight that could be accorded to the PG was limited as the accused was caught red-handed. Nonetheless, the court did apply a downward adjustment from the starting point of 29 years. This suggests that the court did take (substantial) account the mitigating weight of the PG	26 years Appeal against sentence was withdrawn

S/N	Case Details and Charge(s)	Starting point	Culpability	Aggravating Factors	Mitigating Factors	Imprisonment term imposed
	TIC: 1x s 7 MDA (198.8g meth), 1x s 5(1)(a) MDA (0.16g meth)					
10	*PP v Muhammad Ikrimah bin Muhammad Adrian Rogelio Galaura* [2020] SGHC 107 Coram: Aedit Abdullah J Proceeded (PG): 1x s 7 MDA (249.99g meth), 1x s 8(b)(ii) MDA (meth), 1x s 8(a) MDA (34.01g meth)	29 years (at [41])	Limited: courier (at [59])	TIC charges (including one for importing 499.99g cannabis) (at [75])	PG reduction (at [76]) **Red-Handed Rule** Prosecution argued that the PG should be given limited weight as he was caught red-handed (at [18]) The court considered that the Prosecution's argument for a two-year reduction did not give sufficient weight to the circumstances, particularly the guilty plea (at [76]). The court applied a three-year reduction on account of the mitigating factors.	26 years Appeal against sentence was withdrawn.

S/N	Case Details and Charge(s)	Starting point	Culpability	Aggravating Factors	Mitigating Factors	Imprisonment term imposed
	TIC: 1x s 7 MDA (499.99g cannabis), 1x s 9 MDA, 1x s 5(1)(a) r/w s 5(2) MDA (0.84g meth)					
11	*Kannan s/o Birasenggam v PP* [2021] SGCA 15 Coram: Judith Prakash JCA, Tay Yong Kwang JCA, Woo Bih Li JAD Proceeded (PG): 2x s 5(1)(a) MDA (499.99g cannabis and 14.99g diamorphine	29 years (at [7])	Limited role (at [10]) Acting on instructions (at [7]) No evidence of monetary reward (at [7])	Offended while on bail (at [10])	PG reduction No mention of red-handed rule	26 years (per charge, run concurrently) Sentence upheld on appeal

S/N	Case Details and Charge(s)	Starting point	Culpability	Aggravating Factors	Mitigating Factors	Imprisonment term imposed
12	*Muhammad Amirul Aliff bin Md Zainal* [2021] 2 SLR 299 Coram: Andrew Phang Boon Leong JCA, Judith Prakash JCA and Steven Chong JCA Proceeded (PG): 1x s 7 MDA r/w s 34 Penal Code (499.9g cannabis) Note: 2 other co-accused PG'd to the same charge	29 years (at [21])	Gave instructions to his co-accused for the drug venture (at [24]) Member of Malaysian-based drug syndicate (at [24]) Received payment for his role	Prior drug offences (at [24])	Court does not discuss the PG reduction No mention of red-handed rule	27 years Note: two other co-accused received 24 years, as they had cooperated with CNB (at [22]) Sentence upheld on appeal
13	*PP v Steven John a/l Gobalkrishnan* [2021] SGHC 111	29 years	High (at [24(a)]) Active role in collecting, delivering and repackaging drugs (at [24(b)(i)])	None	Cooperated with authorities (implicated co-accused) (at [24(c)(i)]) PG reduction (at [24(c)(ii)]	27 years Appeal against sentence dismissed without written grounds

S/N	Case Details and Charge(s)	Starting point	Culpability	Aggravating Factors	Mitigating Factors	Imprisonment term imposed
	Coram: Chua Lee Ming J Proceeded (PG): 1x s 5(1)(a) r/w s 5(2) MDA (14.99g diamorphine)		Drugs were concealed deep within his bag (at [24(b)(i)]) Actively sourced for customers (at [24(b)(ii)]) Motivated by financial gain, was paid commission of $500 for every 60 packets of diamorphine delivered (at [24(b)(ii)])		**Red-Handed Rule** Prosecution submitted that the mitigating weight of the PG is low since the accused was caught red-handed. The court agreed. Nevertheless still applied a downward adjustment from the starting point of 29 years' imprisonment, suggesting that it did give weight to the PG.	

S/N	Case Details and Charge(s)	Starting point	Culpability	Aggravating Factors	Mitigating Factors	Imprisonment term imposed
14	*Mohamed Affandi bin Mohamed Yuz Al-Haj* [2021] SGHC 151 Coram: Aedit Abdullah J Proceeded (PG): 1x s 5(1)(a) r/w s 12 MDA (14.99g diamorphine) TIC: 9x CDSA	Higher end of 26 to 29 years (at [15])	Played many supporting roles in furtherance of drug trafficking operations (at [17]), including repackaged drugs, collected payment from customers, remitted payment overseas (up the supply chain), was not a one-off transaction	TIC CDSA charges (some uplift, not substantial) at [17])	No drug antecedents PG reduction (not substantial) (at [18]) Limited cooperation (some but not much reduction) (at [20]) No mention of red-handed rule	28 years Appeal against sentence dismissed without written grounds
15	*PP v Poopathi Chinaiyah s/o Paliandi* [2020] 5 SLR 734 Coram: Chua Lee Ming J	29 years (at [25])	Moderate (at [32]) Role was to deliver, store and deliver drugs (at [26]) Acted under directions (at [22(b)] and [27])	Drug trafficking antecedents, released recently and demonstrably undeterred by his previous punishments (at [22(c)(i)]) TIC charges (at [22(c) and [27])	Cooperation with authorities (at [22(d)] and [27]) PG reduction (at [22(d)] and [27]) **Red-Handed Rule**	28 years Appeal against sentence dismissed without written grounds

S/N	Case Details and Charge(s)	Starting point	Culpability	Aggravating Factors	Mitigating Factors	Imprisonment term imposed
	Proceeded (PG): 2x s 5(1)(a) r/w s 5(2) MDA (499.99g cannabis & 8.21g diamorphine), 1x s 8(a) MDA (6.64g cannabis) TIC: 1x s 5(1)(a) r/w s 5(2) MDA (meth)				Prosecution submitted that little mitigating weight should be given to the PG. The court agreed (at [22(d)] and [27]) The court still applied a reduction on the overall sentence from the indicative starting point of 29 years' imprisonment, suggesting that it did give some weight to the PG.	
16	*PP v Nimalan Anada Jothi and anor* [2018] SGHC 97 Coram: Chua Lee Ming J	29 years (for both) (at [38] and [42])	Nimalan Limited role as courier; 21 years old (at [40]) Theyagarajan More culpable than Nimalan	Nimalan None Theyagarajan None	Nimalan PG reduction appears to have been applied but the judgment does not say so Theyagarajan PG reduction (at [46])	Nimalan 26 years Theyagarajan 28 years

S/N	Case Details and Charge(s)	Starting point	Culpability	Aggravating Factors	Mitigating Factors	Imprisonment term imposed
	Proceeded (PG, Nimalan): 1x s 5(1)(a) MDA (14.99g diamorphine) Proceeded (PG, Theyagarajan): 1x s 5(1)(a) r/w s 5(2) MDA (14.99g diamorphine), 1x s 8(a) (enhanced, 0.2g diamorphine), s 8(b)(ii) MDA (LT-2, MAM) TIC (Theyagarajan): 1x s 8(a) MDA (enhanced, 0.21g diamorphine, 3x FRUT		Built up and organised clientele of customers (at [43]) Processed and repackaged drugs for sale (at [43]) $8,000 of drug revenue was seized when he was arrested (at [43])		Cooperation with authorities (which led to the arrest of Nimalan (at [46]) No mention of red-handed rule	Both appeals against sentence were dismissed without written grounds

Annex 2: Post-*Sentencing Guidelines* cases

S/N	Case Details	Charge(s)	Imprisonment term	Sentencing factors relied on by the Prosecution
1	PP v Muhammad Syafiq bin Azman (CC 55/2023) Coram: Hoo Sheau Peng J	Proceeded (PG): 1x s 5(1)(a) r/w s 5(2) MDA (249.99g meth)	25 years No appeal	Culpability - Higher than courier - Engaged in drug trade on commercial scale - Motivated by financial incentive - Took steps to avoid detection Mitigating factors - Cooperation with authorities - PG reduction of 15%
2	PP v Mohammad Idris bin Zainal Abidin (CC 42/2023) Coram: Pang Khang Chau J	Proceeded (PG) 1x s 5(1)(a) r/w s 5(2) MDA (249.99g meth) p/u s 50T(1)(a) PA TIC: 1x s 9 MDA	25 years 6 months No appeal	Culpability - Trafficker: procured the supply of drugs and had his own customer base Aggravating - Drug consumption and possession antecedents Mitigating - PG reduction of 15%

S/N	Case Details	Charge(s)	Imprisonment term	Sentencing factors relied on by the Prosecution
3	PP v Chua Jun Hao (CC 53/2023) Coram: Pang Khang Chau J Note: the co-accused also PG'd (see S/N 6 below)	Proceeded (PG): 1x s 5(1)(a) r/w s 5(2) r/w s 12 MDA (249.99g meth)	23 years No appeal	<u>Culpability</u> - Limited role as courier, acted on direction of a third party - However, elevated by the fact of attempting to conceal evidence of the offence (using gloves to repack the mock drugs) - No downward calibration on account of this being an attempted offence <u>Mitigating</u> - PG reduction of 15% - Accused was 20 years old at the time of the offence <u>Aggravating</u> - Committed offence while under drug supervision Court calibrated the indicative starting sentence from 29 years to 27 years, after balancing limited role as courier and relative youth of accused against the commission of the offence while under a drug supervision order. No sentencing discount was granted on account of this being an attempted offence Court granted 15% discount on account of PG

S/N	Case Details	Charge(s)	Imprisonment term	Sentencing factors relied on by the Prosecution
4	PP v Liang Shoon Yee (CC 8/2023) Coram: Dedar Singh Gill J	Proceeded (PG): 1x s 5(1)(a) MDA (249.99g meth), 6x s 8(a) MDA (enhanced), 1x s 8(b)(ii) MDA (LT-1)	25 years No appeal	<u>Culpability</u> - Trafficker operating the drug trade on commercial scale and part of a syndicate - Procured drugs from a supplier before selling to customers <u>Mitigating</u> - PG reduction of 15%
5	PP v Imran bin Mohd Arip (CC 15/2024) Coram: Mavis Chionh Sze Chyi J	Proceeded (PG): 1x s 5(1)(a) r/w s 12 MDA (14.99g diamorphine) TIC: 1x s 5(1)(a) MDA (12.97g diamorphine)	25 years No appeal	<u>Culpability</u> - High: trafficker who was financially motivated - Actively involved in the drug trade on a commercial scale (as evidenced by TIC charge) <u>Mitigating</u> - PG reduction of 15%
6	PP v Justin Low En Quan (CC 25/2024) Coram: S Mohan J	Proceeded (PG): 1x s 5(1)(a) r/w s 5(2) r/w s 12 MDA (249.99g meth)	22.5 years No appeal	<u>Culpability</u> - Low: limited role as courier acting on directions of third party - However, elevated by the fact of attempting to conceal evidence of the offence (using gloves to repack the mock drugs) <u>Mitigating</u>

S/N	Case Details	Charge(s)	Imprisonment term	Sentencing factors relied on by the Prosecution
				- PG reduction of 10%. Parity with co-accused who pleaded guilty seven months earlier and was entitled to 15% reduction. - Relative youth of accused (below 21 years of age)
7	PP v Colin Chan Wei Ming (CC 17/2024) Coram: Aedit Abdullah J	Proceeded (PG): 1x s 5(1)(a) r/w s 5(2) MDA (249.99g meth) TIC: 3x s 5(1)(a) r/w s 5(2) MDA (601.39g ketamine, 365.06g MDMA, diamorphine (no nett weight)), 1x s 5(1)(a) MDA (266.33g MDMA)	22 years No appeal	<u>Culpability</u> - Low: did not play a planning role and acted under the directions of third party <u>Mitigating</u> - PG reduction of 15%