

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

[2024] SGHC 95

Criminal Case No 47 of 2022

Between

Public Prosecutor

And

Seet Poh Jing

JUDGMENT

[Criminal Law — Statutory offences — Misuse of Drugs Act]

TABLE OF CONTENTS

| | |
|---|-----------|
| INTRODUCTION..... | 1 |
| FACTS..... | 2 |
| THE ARREST AND SEIZURE OF EXHIBITS..... | 2 |
| FORENSIC ANALYSIS OF THE DRUG EXHIBITS..... | 5 |
| FORENSIC EXAMINATION OF SEET’S TWO MOBILE PHONES..... | 7 |
| THE STATEMENTS RECORDED FROM SEET | 8 |
| THE PSYCHIATRIC REPORTS..... | 8 |
| THE PROSECUTION’S CASE..... | 9 |
| THE DEFENCE’S CASE | 11 |
| ISSUES FOR DETERMINATION | 12 |
| MY DECISION | 13 |
| THE LAW..... | 13 |
| THE RESEARCH DEFENCE..... | 14 |
| <i>The Research Defence is an afterthought</i> | <i>14</i> |
| <i>The Research Defence is internally inconsistent.....</i> | <i>27</i> |
| <i>Seet is not a credible witness.....</i> | <i>29</i> |
| <i>Seet’s enthusiasm for cannabis does not prove that Seet possessed the Drugs for the purpose of research and development of CBD</i> | <i>30</i> |
| <i>The totality of the evidence is consistent with Seet having possessed the Drugs for the purpose of trafficking</i> | <i>35</i> |
| HYPOMANIA..... | 40 |
| <i>The expert opinions</i> | <i>40</i> |

| | |
|---|-----------|
| <i>The parties' cases</i> | 43 |
| <i>Whether Seet suffered from hypomania</i> | 45 |
| <i>Section 33B(3)(b) of the MDA</i> | 50 |
| CONCLUSION | 53 |

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Public Prosecutor

v

Seet Poh Jing

[2024] SGHC 95

General Division of the High Court — Criminal Case No 47 of 2022

See Kee Oon JAD

13–14, 16, 20–21 September, 7 November 2022, 25–26, 30 January,

3 February, 16–17 October, 29 December 2023

2 April 2024

Judgment reserved.

See Kee Oon JAD:

Introduction

1 The accused, Seet Poh Jing (“Seet”), claimed trial to a charge of having in his possession for the purpose of trafficking not less than 4509.2g of cannabis mixture (“the Drugs”), an offence under s 5(1)(a) read with s 5(2) of the Misuse of Drugs Act (Cap 185, 2008 Rev Ed) (“MDA”). This is an offence punishable under s 33(1) of the MDA.

2 The charge reads as follows:

... you, on 28 June 2018, at about 5.20pm, inside a car bearing Singapore registration number SJP9770Z, parked at the car park of Blk 857 Tampines Street 83, Singapore, did traffic in a Class A Controlled Drug listed in the First Schedule to the Misuse of Drugs Act (Cap 185, 2008 Rev Ed) (“MDA”), to wit, by having in your possession for the purpose of trafficking five blocks containing not less than 4509.2g of vegetable matter

which was analysed and found to contain a mixture of: (a) not less than 1894.7g of greenish brown vegetable matter which was analysed and found to be cannabis as defined in s 2 of the MDA; and (b) not less than 2614.5g of greenish brown fragmented vegetable matter which was analysed and found to contain cannabinal and tetrahydrocannabinol, which mixture of vegetable matter was therefore cannabis mixture as defined in s 2 of the MDA, without authorisation under the said Act or the Regulations made thereunder, and you have thereby committed an offence under s 5(1)(a) read with s 5(2) of the MDA, punishable under s 33(1) of the MDA, and further upon your conviction, you may alternatively be liable to be punished under s 33B of the MDA.

3 Seet initially faced 23 other charges for offences under the MDA. These charges were stood down pending his trial on the present charge.¹

4 The presumption in s 17 of the MDA that Seet had the Drugs in his possession for the purpose of trafficking was operative. For the reasons set out below, I find that Seet has failed to rebut the presumption. I am therefore satisfied that the Prosecution has proved the charge of possession for the purpose of trafficking beyond reasonable doubt.

Facts

5 The following background facts are undisputed and uncontroversial. Seet was 28 years of age at the time of the alleged offence. Prior to his arrest, he was working as a property sales agent for Huttons Asia Pte Ltd.²

The arrest and seizure of exhibits

6 On 28 June 2018, at about 4.25pm, Seet was arrested together with his girlfriend, Elizabeth Leong Ai Ying (“Elizabeth”), at the ground floor of the lift

¹ Prosecution’s Opening Statement at para 2.

² Transcript, 25 January 2023, p 6 ln 13–18.

landing of Block 857 Tampines Street 83.³ Thereafter, Seet was escorted by officers from the Central Narcotics Bureau (“CNB”) to the carpark in front of Block 857 (“the Carpark”).⁴ At about 4.33pm, at the Carpark, Seet was searched and several items were recovered from him and seized as case exhibits.⁵

7 At about 5.15pm, Seet was escorted to a white BMW hatchback bearing registration number “SJP9770Z” (the “BMW”), which was parked at the Carpark.⁶ The BMW was searched in Seet’s presence and the following items, among others, were seized as case exhibits:⁷

- (a) From the car boot (location later marked as “A”):
 - (i) one “FairPriceFinest” plastic bag (marked as exhibit “A1”) containing:
 - (A) one block of vegetable matter (“A1A1”) wrapped with clear wrapper (“A1A”); and
 - (B) one block of vegetable matter (“A1B1”) wrapped with clear wrapper (“A1B”).
- (b) From the car boot (location later marked as “B”):
 - (i) one pixelated “Li-Ning” bag (marked as exhibit “B1”) containing:

³ Agreed Bundle (“AB”) at pp 260–261 (Inspector Ng Tze Chiang Tony’s (“Insp Tony’s”) conditioned statement at para 5).

⁴ AB at p 261 (Insp Tony’s conditioned statement at para 6).

⁵ AB at p 261 (Insp Tony’s conditioned statement at para 7); AB at pp 266–267 (Senior Staff Sergeant Goh Jun Xian’s (“SSS Eric’s”) conditioned statement at para 6).

⁶ AB at pp 260–261 (Insp Tony’s conditioned statement at paras 3, 4, 10).

⁷ AB at p 268 (SSS Eric’s conditioned statement at para 11); AB at pp 402, 417–421.

- (A) one block of vegetable matter (“B1A1”) wrapped with clear wrapper (“B1A”); and
- (B) one “STARWARD” brown paper bag (“B1B”) containing:
 - (I) one block of vegetable matter (“B1B1A”) wrapped with clear wrapper (“B1B1”); and
 - (II) one block of vegetable matter (“B1B2A1”) wrapped with clear and white wrappers (“B1B2” and “B1B2A”).

8 Thereafter, Seet was escorted to his residential address at Blk 166 Hougang Avenue 1 #03-1576, arriving at about 8.49pm.⁸ At about 9.30pm, Seet’s bedroom was searched in his presence and several other items were seized as case exhibits.⁹ The exhibits seized from Seet’s person, the BMW and his bedroom included drug paraphernalia which could be used for drug consumption and to facilitate trafficking activities.¹⁰

9 At about 10.49pm, Seet was brought back to the BMW which had been towed to Woodlands Checkpoint.¹¹ Seet was asked whether he had anything in the BMW to surrender. Seet then surrendered one white box containing 16 facial cream containers from the car boot (the “KANA products”, marked as exhibit “D1A”). These were seized as case exhibits.¹²

⁸ AB at p 262 (Insp Tony’s conditioned statement at para 16).

⁹ AB at p 262 (Insp Tony’s conditioned statement at para 17); AB at pp 271–272 (SSS Eric’s conditioned statement at para 20).

¹⁰ AB at pp 276–281.

¹¹ AB at p 272 (Insp Tony’s conditioned statement at para 23).

¹² AB at pp 272–273 (Insp Tony’s conditioned statement at para 24).

Forensic analysis of the drug exhibits

10 The Health Sciences Authority (“HSA”) analysed the five blocks of vegetable matter which were seized from the BMW and found the quantity of drugs in the exhibits to be as follows:

| S/N | Exhibit Marking | Quantity of Drugs |
|------------|------------------------|---|
| 1. | A1A1 | One block containing not less than 911.6g of cannabis mixture ¹³ |
| 2. | A1B1 | One block containing not less than 829.4g of cannabis mixture ¹⁴ |
| 3. | B1A1 | One block containing not less than 938.4g of cannabis mixture ¹⁵ |
| 4. | B1B1A | One block containing not less than 870.1g of cannabis mixture ¹⁶ |
| 5. | B1B2A1 | One block containing not less than 959.7g of cannabis mixture ¹⁷ |

The total amount of cannabis mixture contained in the drug exhibits listed above was not less than 4509.2g. Seet does not dispute that he was in possession of

¹³ Supplementary Agreed Bundle (Volume 1) (“SAB-1”) at pp 3–4.

¹⁴ SAB-1 at pp 5–6.

¹⁵ SAB-1 at pp 7–8.

¹⁶ SAB-1 at pp 9–10.

¹⁷ SAB-1 at pp 11–12.

the Drugs and that he knew that they were cannabis mixture, which he referred to as “weed”. The chain of custody of the drug exhibits is also not disputed. This amount forms the subject-matter of the charge against Seet.

11 Further, following analysis by the HSA, Seet’s DNA profile was found on, among others, the following exhibits:

- (a) the plastic sheets and cling wraps of the exhibit marked “A1B”;¹⁸
- (b) the sticky side and the non-sticky side of the tapes of the exhibit marked “B1A”;¹⁹
- (c) swabs, which were taken of the exhibit marked “B1A”;²⁰
- (d) exterior of the exhibit marked “B1B”;²¹
- (e) non-sticky side of the tapes of the exhibit marked “B1B1”;²²
- (f) swabs, which were taken of the exhibit marked “B1B1”;²³
- (g) non-sticky side of the tapes of the exhibit marked “B1B2”;²⁴ and
- (h) swabs, which were taken of the exhibit marked “B1B2”.²⁵

¹⁸ AB at p 121.

¹⁹ AB at p 121.

²⁰ AB at p 122.

²¹ AB at p 122.

²² AB at p 123.

²³ AB at p 123.

²⁴ AB at p 123.

²⁵ AB at p 122.

Forensic examination of Seet’s two mobile phones

12 Seet’s two mobile phones (“SPJ-HP1” and “SPJ-HP2”) were sent for forensic examination. This revealed that he had sent messages to various persons on 30 May 2018 using SPJ-HP2.²⁶ He considered the mass-sent messages to be advertisements for “weed”,²⁷ which read:²⁸

Spread the love guys LOL... Score some beautiful brick w**d @ 420/20 bags of 2.5g. PM to get your personal discount NOW! #PeaceOut

New beauty products with CPD Oil Infused Night Mask on the market soon!

New THC Gummies will be arriving in 3 to 5 days. Remember to pm to get your pricing!!

13 Other related messages sent by Seet using SPJ-HP2 included the following:

(a) On 6 May 2018, Seet sent a message to a person saved in his contacts as “Jia Jian Hp”, introducing himself as “Ganja man” before sending out the advertisement on 30 May 2018.²⁹

(b) On 29 May 2018, Seet sent a message to someone saved in his contacts as “Kenneth Kang”, asking, “Bro, got [people] [who] want green”. Seet confirmed that the word “green” referred to cannabis mixture.³⁰

²⁶ Transcript, 26 January 2023, p 79 ln 22–24.

²⁷ Transcript, 26 January 2023, p 80 ln 1–p 84 ln 20.

²⁸ Supplementary Agreed Bundle (Volume 2) (“SAB-2”) at pp 953, 984, 993, 1062, 1109, 1136, 1187, 1216, 1340, 1351, 1367, 1402, 1436, 1462, 1472, 1482, 1484, 1486, 1489, 1492, 1505.

²⁹ Transcript, 26 January 2023, p 81 ln 6–14; SAB-2 at p 1209.

³⁰ Transcript, 26 January 2023, p 82 ln 23–26; SAB-2 at p 1365.

The statements recorded from Seet

- 14 A total of 32 investigative statements were recorded from Seet:
- (a) one contemporaneous statement recorded on 29 June 2018, from 6.03am to 6.34am;
 - (b) one cautioned statement recorded on 29 June 2018 from 3.40pm to 5.50pm;
 - (c) eight long statements recorded on 29 June 2018, 3 to 5 July 2018 and 4 June 2019; and
 - (d) 22 other cautioned statements recorded on 4 June 2019 for related charges that are not the subject of this judgment.

Seet did not challenge the admissibility of any of the statements.

The psychiatric reports

15 Seet was first examined by Dr Kenneth Koh (“Dr Koh”) of the Institute of Mental Health (“IMH”). Dr Koh interviewed Seet on 12, 16 and 19 July 2018.³¹ This led to the production of a report dated 20 July 2018 (exhibit P166).³² Dr Koh concluded that Seet suffered from a substance use disorder because of his consumption of methamphetamine and cannabis.³³ However, he had no other “major” mental disorder.³⁴

³¹ AB at p 249.

³² AB at pp 250–251.

³³ AB at p 251.

³⁴ AB at p 251.

16 Midway through the trial, another assessment was conducted by Dr Jacob Rajesh (“Dr Rajesh”) of Promises Healthcare Pte Ltd (“Promises Healthcare”). Dr Rajesh examined Seet on three occasions on 16 January 2023, 9 February 2023, and 14 February 2023.³⁵ Seet was called upon to enter his defence on 25 January 2023. In his report dated 11 March 2023 (exhibit D9 – “Dr Rajesh’s Report”), Dr Rajesh diagnosed Seet as suffering from a “drug induced hypomanic episode with onset sometime in March/April 2018 and it persisted due to his continuing drug use”.³⁶ Dr Rajesh opined that Seet’s hypomanic symptoms “contributed significantly to his reckless and impulsive behaviour at the material time” as he was using the Drugs for the extraction of cannabidiol oil, as part of his “grandiose plans to set up a cannabis business despite the illegality of the business venture and despite advice given by his family members and the lawyer Mr Kertar Singh” (“Kertar”).³⁷

17 In response to Dr Rajesh’s Report, Dr Koh prepared a further report dated 24 July 2023 (exhibit P366). In this report, Dr Koh questioned the findings of Dr Rajesh, noting that he had failed to consider the discrepancies between the accounts that Seet had provided to both Dr Rajesh and Dr Koh, these being accounts which Dr Rajesh was aware of.³⁸

The Prosecution’s case

18 The Prosecution’s case is that Seet had the Drugs in his possession for the purpose of trafficking. In this regard:

³⁵ Exhibit D9 at p 2.

³⁶ Exhibit D9 at para 49.

³⁷ Exhibit D9 at para 56.

³⁸ Exhibit P366 at para 5.

(a) It is undisputed that Seet had actual possession of the Drugs and Seet has admitted to the same.³⁹

(b) It is also undisputed that Seet knew the nature of the Drugs in his possession and Seet has admitted to the same.⁴⁰

(c) In relation to the element of possession for the purpose of trafficking, the Prosecution relies on the presumption of trafficking under s 17 of the MDA. The Prosecution submits that the presumption applies and Seet cannot rebut it on a balance of probabilities.

19 Specifically, the Prosecution contends that Seet’s defence that he possessed the Drugs for the purpose of conducting research and development of cannabidiol (“CBD”) (the “Research Defence”) was a mere afterthought⁴¹ and internally inconsistent.⁴² It was contradicted by the messages in his handphone (SPJ-HP2) advertising cannabis for sale and his admissions in his statements that he intended to sell or share the Drugs with other persons.⁴³ The Prosecution also highlights Seet’s lack of credibility⁴⁴ and submits that his communications with his purported contacts which included Manpreet Sethi (“Manpreet”),⁴⁵

³⁹ Transcript, 26 January 2023, p 22 ln 24–26; Closing Submissions of the Accused at para 27.

⁴⁰ Transcript, 26 January 2023, p 21 ln 27–29; Closing Submissions of the Accused at para 27.

⁴¹ Prosecution’s Closing Submissions at paras 53–71.

⁴² Prosecution’s Closing Submissions at paras 72–77.

⁴³ Prosecution’s Closing Submissions at paras 55–71, 88.

⁴⁴ Prosecution’s Closing Submissions at paras 78–82.

⁴⁵ Transcript, 25 January 2023, p 24 ln 16–p 26 ln 2.

Henry See (“Henry”),⁴⁶ Kertar,⁴⁷ “Ricky”,⁴⁸ and Sean See⁴⁹ do not support the Research Defence.⁵⁰

20 In relation to Seet’s claim that he was suffering from a drug-induced hypomanic episode, thus causing him to exhibit reckless behaviour, the Prosecution submits that the evidence in totality shows that Seet does not fulfil the criteria in the American Psychiatric Association’s *Diagnostic and Statistical Manual of Mental Disorders* (5th Ed) (“DSM-5”) of a substance-induced hypomanic disorder.⁵¹

The Defence’s case

21 Seet’s case centres on the Research Defence. He maintains that he did not have the Drugs in his possession for the purpose of trafficking.⁵²

22 Seet claims to have developed a fascination with cannabis beyond merely consuming it, and his interest extended to the cultivation and the potential uses of CBD.⁵³ He had consulted several contacts beginning from March 2018 regarding the possibility of starting a cannabis-related business. Seet submits that his plans to utilise the Drugs for research and development are supported by the contemporaneous records and testimony of the contacts whom

⁴⁶ Transcript, 25 January 2023, p 26 ln 3–p 31 ln 3.

⁴⁷ Transcript, 25 January 2023, p 33 ln 17–p 35 ln 13.

⁴⁸ Transcript, 25 January 2023 p 25 ln 24–p 26 ln 2.

⁴⁹ Transcript, 30 January 2023, p 7 ln 9–23.

⁵⁰ Prosecution’s Closing Submissions at paras 83–86.

⁵¹ Prosecution’s Closing Submissions at paras 94–136.

⁵² Closing Submissions of the Accused at para 14.

⁵³ Closing Submissions of the Accused at para 16.

he had approached regarding the potential business opportunities presented by the production of CBD.⁵⁴

23 In support of his hypomania defence, Seet relies on Dr Rajesh’s Report (see above at [16]) in which he was diagnosed to have been suffering from a “drug-induced hypomanic episode”. This contributed significantly to his “reckless and impulsive behaviour” in carrying out his “grandiose plans to set up a cannabis business” by extracting CBD oil.⁵⁵ Dr Rajesh’s Report would support his claim that he had formed the intention to attempt to produce CBD and gone on to act on it.

24 The defence submits that the “only conclusion” given the circumstances surrounding how Seet came to be in possession of the Drugs and what he intended to do with them is that he did not have the Drugs for the purpose of trafficking. Accordingly, the presumption of trafficking under s 17 of the MDA is rebutted and the Prosecution has failed to prove its case beyond a reasonable doubt.⁵⁶

Issues for determination

25 It is undisputed that Seet was in possession of the Drugs and knew that they were cannabis mixture. The key issue in this case is whether Seet can rebut the presumption of trafficking under s 17 of the MDA, and show on the balance of probabilities that he did not possess the Drugs for the purpose of trafficking. As outlined in the respective cases for the Prosecution and Defence, Seet relies

⁵⁴ Closing Submissions of the Accused at para 25.

⁵⁵ Closing Submissions of the Accused at paras 51–52.

⁵⁶ Closing Submissions of the Accused at para 2.

primarily on the Research Defence and, additionally, the diagnosis of drug-induced hypomania contained in Dr Rajesh's Report.

My decision

The Law

26 It is established law that the required elements for a charge of trafficking under s 5(1)(a) of the MDA are:

- (a) possession of a controlled drug – which may be proved or presumed pursuant to s 18(1) of the MDA;
- (b) knowledge of the nature of the drug – which may be proved or presumed pursuant to s 18(2) of the MDA; and
- (c) proof that possession of the drug was for the purpose of trafficking which was not authorised – which may be proved or presumed pursuant to s 17 of the MDA.

See *Muhammad Ridzuan bin Md Ali v Public Prosecutor and other matters* [2014] 3 SLR 721 at [59].

27 As noted above (at [10] and [18]), Seet has admitted that he had actual possession of the Drugs and knew the nature of the Drugs. Therefore, the sole issue to be determined is whether Seet's possession of the Drugs was for the purpose of trafficking.

28 In that regard, s 17 of the MDA provides:

Presumption concerning trafficking

17. Any person who is proved to have had in his or her possession more than —

...

(e) 30 grammes of cannabis mixture;

...

whether or not contained in any substance, extract, preparation or mixture, is presumed to have had that drug in possession for the purpose of trafficking unless it is proved that his or her possession of that drug was not for that purpose.

In order to rebut the presumption, the burden lies on the accused to prove on a balance of probabilities that he had no such purpose of trafficking: *Ali bin Mohamad Bahashwan v Public Prosecutor and other appeals* [2018] 1 SLR 610 at [96]. Under the MDA, to “traffic” means “to sell, give, administer, transport, send, deliver or distribute” or to offer to do any of the aforementioned: s 2 of the MDA.

The Research Defence

29 The central question before me is whether Seet is able to prove on a balance of probabilities that his possession of the Drugs, namely the five blocks of cannabis mixture weighing not less than 4509.2g, was for the purpose of research and development, including the production and/or extraction, of CBD.

30 For the reasons below, I find that the Research Defence has not been proved on a balance of probabilities. Accordingly, Seet has failed to rebut the presumption of trafficking under s 17 of the MDA.

The Research Defence is an afterthought

31 It is undisputed that Seet provided statements to the CNB on multiple occasions after his arrest, but did not raise the Research Defence until trial.⁵⁷

⁵⁷ Prosecution’s Closing Submissions at para 53; Closing Submissions of the Accused at para 30.

This was despite the fact that Seet was asked numerous times by the Investigating Officer (“IO”) about his purpose for possessing the Drugs.

32 First, in Seet’s cautioned statement recorded on 29 June 2018,⁵⁸ just one day after his arrest, Seet makes no mention of the Research Defence. This was despite the Investigating Officer Insp Michelle Tan Lye Cheng (“the IO”) administering the notice of warning and specifically cautioning Seet that if he failed to raise any defence in the cautioned statement, and only raised the defence at trial, the judge may be less likely to believe his defence at trial.

33 In the course of cross-examination, Seet alleged that he “[did not] know what is cautioned statement” and did not know “whether to give [his] defence at this point”.⁵⁹ I disbelieve Seet’s testimony. Seet signed against this notice of warning and also against his acknowledgement that the notice of warning was read back to him in English and that he understood the content. Seet acknowledged as much in cross-examination, that the warning was read to him and that he understood the words.⁶⁰ I also disbelieve Seet’s claim that he regarded the warning as a mere “formality”.⁶¹ That goes against Seet’s own evidence that he knew he was supposed to give a defence after he was read the notice of warning and that he knew, at that moment, that “the punishment was death” and it “dawned on [him] that ... [he was] probably in deep shit”.⁶² That was Seet’s own explanation proffered for why he lied in the cautioned statement that he was forced to accept five “books” of the cannabis mixture.⁶³

⁵⁸ AB at pp 384–387.

⁵⁹ Transcript, 26 January 2023, p 37 ln 4, 9–10.

⁶⁰ Transcript, 26 January 2023, p 30 ln 25–26, p 37 ln 28–p 38 ln 5.

⁶¹ Transcript, 26 January 2023, p 38 ln 5–7.

⁶² Transcript, 26 January 2023, p 34 ln 2–7.

⁶³ Transcript, 26 January 2023, p 33 ln 21–p 34 ln 10.

34 Evidently, the purpose and the gravity of the notice of warning was not lost on Seet. He knew that he was supposed to mention any fact or matter in his defence (if there was any). Yet, the Research Defence was not raised at all in Seet's cautioned statement. Rather, Seet's explanation for the amount of cannabis mixture in his possession was as follows:⁶⁴

...meant for helping my 'damaged' friends who need help and sense of belonging and also to give them a sense of security. Also to help them get back on track in life. The cannabis is also meant for disposal, at anytime. At the same time, it is also a way of funding activities which will eventually help those friends to get a place in the society. I was forced to accept this amount of cannabis from the supplier because I did not order that much and was obliged to comply due to the way of the deal.

No mention was made of the research and development and/or production and/or extraction of CBD.

35 Seet argues that the word "funding" (see [34] above) was misrecorded and the sentence should have read "[a]t the same time, it is also a way of *finding* activities which will eventually help those friends to get a place in the society" [emphasis added].⁶⁵ The Defence points out the manner in which the word "funding" appeared to have been amended by hand. I note, firstly, that any ambiguity in the handwritten word "funding" only lies in the letter "n", which appears to have been written over, and not in the letter "u". Additionally, Seet acknowledges that his cautioned statement was read back to him in the English language and that he was invited to make any changes to it, which he declined. If there had been any issues with the letter "u" in the word "funding" there and then, Seet could and indeed would have asked for the necessary amendment to be made and countersigned against the amendment. After all, Seet had

⁶⁴ AB at p 387.

⁶⁵ Transcript, 26 January 2023, p 8 ln 1–2.

countersigned against three amendments in the main body of his cautioned statement.

36 More importantly, even if the word had read “finding” instead of “funding”, that does not detract from the main and crucial point that no mention would still have been made of the research and development and/or production and/or extraction of CBD. Seet’s evidence appears to be that the reference to “finding activities” contemplates that his friends would somehow be engaged in the research venture, such as by asking them to “get feedbacks from [other] countries – China, Indonesia”.⁶⁶ In my view, this is both a strained and fanciful explanation. There is no further context in Seet’s cautioned statement that would have suggested that his “damaged” friends would be associated with the alleged research and development and/or production and/or extraction of CBD. “Finding activities” could have simply meant engaging his friends in communal weed smoking. Therefore, the point remains that Seet did not raise the Research Defence in his cautioned statement of 29 June 2018.

37 Second, in Seet’s long statement recorded on 3 July 2018 at 3.10pm,⁶⁷ Seet’s explanation for what he wanted to do with the Drugs was that they were meant for sharing, personal consumption and selling:⁶⁸

I had a total of five ‘books’ in the boot of my BMW. This means that I had about five kilos of weed. The five ‘books’ are meant *for sharing, for my consumption and selling*. I have some friends getting weed from me. The weed for the customers is in one ‘book’, half ‘book’, one ‘brick’ and half ‘brick’. One ‘brick’ means one small piece of 50 grams of weed and half ‘brick’ means 25 grams of weed. The price for one ‘book’ is between S\$2.5k to S\$4.5k, half ‘book’ is between S\$1.5k to S\$3k, one ‘brick’ is between S\$250 to S\$420 and half ‘brick’ is the half price of the

⁶⁶ Transcript, 26 January 2023, p 8 ln 5–12.

⁶⁷ AB at pp 393–396.

⁶⁸ AB at p 394.

one 'brick'. That is the market price of the weed in Singapore. The price of the weed is depended on the buying power and the financial situation of my friends. The weed is priced at the higher range if my friends have higher buying power which means they can afford to pay more. The weed is priced at the lower range for those friends who have lower buying power. However, it also depended if my friends can afford it or not, they will pay according to their financial situation.

[emphasis added]

38 From Seet's statement above, Seet was undoubtedly acknowledging that he had friends who purchased weed from him and that he was familiar with the market price for weed in Singapore. Seet also articulated his personal philosophy as to his pricing strategy for the sale of weed, which "depended on the buying power and the financial situation of [his] friends" and that "they will pay according to their financial situation". Seet went into great detail as regards his personal pricing philosophy. In contrast, no mention was made of the Research Defence.

39 Third, in Seet's long statement recorded on 4 July 2018 at 2.35pm,⁶⁹ Seet tweaked his explanation once more, suggesting that his defence was that the Drugs were for his personal consumption:⁷⁰

Q9) [referring to B1A1, B1B1A, B1B2A1] What are these items for?

A9) For my own consumption.

Q10) How much do you consume in a day?

A10) A lot.

Q11) 'A lot' is how much?

A11) 25 grams per day.

⁶⁹ AB at pp 403–416.

⁷⁰ AB at p 404.

40 At trial, Seet claimed that during the taking of his long statement on 4 July 2018, he was not in a proper state of mind and his speech was “slurring”.⁷¹ While the statements taken on 4 July 2018 show that Seet had complained of several ailments including a “backache”⁷² and “headache”⁷³ and was given eye drops,⁷⁴ Seet’s characterisation of his state of mind and physical condition is uncorroborated. Seet’s account of his condition was also not put to the IO in cross-examination. Nevertheless, Seet was given the chance and, was in fact asked to clarify his differing evidence given on 3 July 2018 and 4 July 2018 on 5 July 2018, when he was no longer feeling unwell.⁷⁵ I turn now to this long statement.

41 In Seet’s long statement recorded on 5 July 2018 at 2.37pm,⁷⁶ Seet was asked to explain the discrepancy in his evidence – on 3 July 2018 he stated that the Drugs were meant for sharing, his own consumption and selling, whereas on 4 July 2018 he stated that the Drugs were meant for his consumption. Seet gave the following explanation:⁷⁷

Q175) You stated that the five ‘books’ found in your BMW were meant for sharing, your consumption and selling. You later stated that the five ‘books’ were meant for your consumption. Can you explain the discrepancy?

A175) I forgot to add in sharing for the later statement.

Q176) How about the ‘selling’?

⁷¹ Transcript, 26 January 2023, p 42 ln 13–19.

⁷² AB at p 400.

⁷³ AB at p 401.

⁷⁴ AB at p 403.

⁷⁵ AB at p 430.

⁷⁶ AB at pp 446–465.

⁷⁷ AB at p 464.

A176) In exchange for money, that amounted to more than my cost. I would assume it fall under the category of a sale. I shared my cannabis with my friends at cost price or even for free, no cost at all. So I would say that it is not for sale.

In essence, Seet's evidence was that he shared the Drugs with his friends at no cost, or charged his friends at cost price.

42 In the table below, I summarise Seet's evidence in his statements as to his purpose for possessing the Drugs:

| S/N | Statement | Purpose |
|-----|--|--|
| 1 | Cautioned statement recorded on 29 June 2018 | The Drugs were (a) meant for helping his 'damaged' friends who needed help and sense of belonging and sense of security; (b) meant for disposal; and (c) a way of funding activities to help those friends get a place in the society. He was also forced to accept this amount of cannabis from the supplier. |
| 2 | Long statement recorded on 3 July 2018 | The Drugs were meant for sharing, his own consumption and selling. The selling price depended on the buying power and financial situation of his friends. |
| 3 | Long statement recorded on 4 July 2018 | The Drugs were for his own consumption (25g per day). |

| | | |
|---|--|---|
| 4 | Long statement recorded on 5 July 2018 | The Drugs were meant for his own consumption and sharing (at cost price or for no cost at all). |
|---|--|---|

43 The common thread across all of Seet’s statements is clear notwithstanding the prevarication in his various explanations above: the Research Defence was never raised specifically in relation to what he intended to do with the Drugs. I am conscious that in his long statement recorded on 5 July 2018, Seet did mention his interest in knowing “the law and legislation on cannabis” and how he could contribute to the drug industry.⁷⁸ However, these points were apparently raised in the context of his plans for a “one stop shop” which might include the KANA products.⁷⁹ In the same statement, Seet also shared that he was keen to find out more about the cultivation of cannabis in the Golden Triangle and about laboratories that certify and patent plant DNA in the United States. In all his statements, Seet never mentioned that the Drugs, namely the five blocks of cannabis mixture weighing not less than 4509.2g, were for the purpose of research and development and/or production and/or extraction of CBD. On the contrary, Seet gave a number of other purposes that the Drugs were meant for (although his evidence on this shifts), including sharing, personal consumption, and selling.

44 Seet’s explanation for failing to raise the Research Defence in his statements is that he was worried he would implicate others.⁸⁰ I disbelieve Seet’s explanation. First, Seet’s own evidence was that “no friends ... were onboard at the point of arrest” as Seet himself had not even tried to extract CBD from the

⁷⁸ AB at pp 452–453 at A69, A72, A73.

⁷⁹ AB at p 452 at A69.

⁸⁰ Transcript, 26 January 2023, p 34 ln 18–22, p 35 ln 23–26, p 36 ln 18–20, p 40 ln 8–15.

cannabis at that point in time.⁸¹ Logically, there would be no one to implicate, if in fact no one was involved. When pressed on this point in cross-examination, namely that none of his friends had actually assisted him with the research and development or extraction of CBD, Seet claimed that his girlfriend, Elizabeth, was “directly involved in this”.⁸² However, Seet had always maintained that Elizabeth was only involved in the KANA products, which were not related to the Drugs (*ie*, the five blocks of cannabis mixture).⁸³ In my judgment, Seet’s evidence simply does not withstand scrutiny.

45 The Defence submits, in this regard, that the question is not whether Elizabeth or Seet’s friends would be implicated but whether Seet believed that they would be.⁸⁴ Seet refers to “people that---that will be on board, or who I want to be on board, and I have spoken to them also”.⁸⁵ However, Seet could have raised the Research Defence without mentioning the persons who allegedly were to come on board at some point down the road. In my view, Seet provides no credible explanation for the glaringly conspicuous absence of the Research Defence in his statements, which is a crucial (and in fact his only) argument for rebutting the presumption of trafficking under s 17 of the MDA for a charge that carries the death penalty. There was not even the faintest allusion to the research and development or extraction of CBD as far as the Drugs were concerned. I also note, parenthetically, that Seet was perfectly comfortable mentioning that he intended to share the Drugs with and/or sell them to his friends, on top of acknowledging his personal consumption. Seet

⁸¹ Transcript, 26 January 2023, p 23 ln 19–21.

⁸² Transcript, 26 January 2023, p 34 ln 27.

⁸³ Transcript, 26 January 2023, p 34 ln 29–32.

⁸⁴ Closing Submissions of the Accused at para 90.

⁸⁵ Transcript, 26 January 2023, p 36 ln 1–3.

obviously had no qualms implicating his friends, minimally, for drug consumption or drug possession.

46 Seet further contends that his state of mind at the time when his cautioned and investigative statements were recorded was materially affected by SSS Eric’s error in informing him during the recording of his contemporaneous statement on 29 June 2018 that the KANA products containing CBD oil were illegal in Singapore. But for this error, Seet claims that he “would have likely stated” the Research Defence.⁸⁶ The relevant questions and answers are as follows:⁸⁷

Q2. What is are these 16 bottles of facial cream contain?

A2. One of the main ingredients contain is CDB (*sic*) oil. It derive from cannabis plant. Which is non-psycho-active. (recorder’s note: CBD oil refers to cannabidiol)

Q3. Do you know it is illegal in Singapore?

A3. Yes.

47 In my view, Seet’s argument is unconvincing. SSS Eric acknowledged when cross-examined that he was wrong to suggest that the KANA products containing CBD oil were illegal in Singapore, but he explained that “it’s just a question to [Seet]”.⁸⁸ Materially, Seet’s response to SSS Eric’s question then was “Yes”; he *knew* that it was illegal in Singapore. If, as Seet claimed, he believed all along that the products were legal,⁸⁹ he could simply have said so then. Seet offers no credible explanation why he did not do so at that point. In fact, he went on to state in his next statement recorded by the IO on the same

⁸⁶ Closing Submissions of the Accused at paras 84, 86, 89, 90 and 99.

⁸⁷ AB at pp 283–284.

⁸⁸ Transcript, 13 September 2022, p 71 ln 20–25.

⁸⁹ Closing Submissions of the Accused at para 99.

day (29 June 2018) that he “knew that ‘CBD’ oil is legal in Singapore so [he] ordered it”.⁹⁰ These crucial points are conveniently glossed over by the Defence. As such, I am unable to see how SSS Eric could be said to have misled or influenced Seet such that he would hold back disclosing the Research Defence, not only when the contemporaneous statement was being recorded, but in all his subsequent statements. There is no “seismic impact on what he could say going forward”, contrary to the Defence’s rhetoric,⁹¹ let alone any material impact on Seet’s state of mind. This is self-evident because Seet did not labour under any misapprehensions about the legality of the CBD oil. He was able to inform the IO that he “knew that ‘CBD’ oil is legal in Singapore” on the very same day that his contemporaneous statement was recorded.

48 I pause at this juncture to highlight that Seet does not challenge the voluntariness or admissibility of his statements. I had expressly obtained confirmation from counsel for Seet that this was so when the IO was being cross-examined. I reproduce the relevant exchange during the IO’s cross-examination for convenient reference below:⁹²

Court: You need to be clear where you are heading with this, Mr Jumabhoy, because the understanding was that you are not challenging voluntariness [of the statements].

Jumabhoy: No, Your Honour, I’m not challenging voluntariness [of] the statements.

Court: So if there is any suggestion that there might have [been] an inducement of some sort ---

Jumabhoy: Can we have ---

Court: --- I do want to be clear that this is not where you are heading.

⁹⁰ AB at p 389 at para 6.

⁹¹ Closing Submissions of the Accused at para 89.

⁹² Transcript, 20 September 2022, p 56 ln 20–p 57 ln 5.

...

Jumabhoy: I'm not heading down that line and I can explain to Your Honour that the basis ---

Court: Alright, I'll take your word for that if that's not the approach you are taking,

Jumabhoy: That's not the approach I'm taking.

49 Seet now contends in the Closing Submissions of the Accused that the statements are unreliable or of doubtful validity and suggests that “there is more than meets the eye when it comes to how the statements were recorded”.⁹³ This submission is premised on *Goh Joon Tong and another v Public Prosecutor* [1995] 3 SLR(R) 90 at [33], where the Court of Appeal noted that subsequent evidence adduced at trial may raise “some doubt as to the voluntariness in the making of such statement” which had previously been admitted in evidence by the trial judge. If so, “little or no weight” may be attached to the statement and it would not be treated as part of the substantive evidence in the main trial. The rationale for this principle is “to guard against any impropriety of the investigating authorities in obtaining a statement from the accused”.

50 I accept that certain issues raised in the Closing Submissions of the Accused⁹⁴ do raise valid concerns pertaining to the recording of the statements. For instance, the IO could not fully explain why it took her over four hours to record Seet’s statement on 3 July 2018 consisting of 12 paragraphs.⁹⁵ But far too much is made by the Defence of the cancellation and re-insertion of the word “selling” and the retention of the word “customers” in this statement.⁹⁶ I also do

⁹³ Closing Submissions of the Accused at paras 110, 115–117.

⁹⁴ Closing Submissions of the Accused at paras 100–114.

⁹⁵ Transcript, 20 September 2022, p 58 ln 17–26; AB at pp 393–396.

⁹⁶ AB at p 394 at para 18; Transcript, 20 September 2022, p 66 ln 28–p 70 ln 22; Closing Submissions of the Accused at paras 112–114.

not find it “curious” that the IO did not permit Seet to make his own amendments to the statements and would only allow him to countersign against the amendments.⁹⁷ In addition, I have already addressed why I reject Seet’s arguments pertaining to his alleged use of the word “finding” instead of “funding” at [35]–[36] above.

51 The Defence further takes issue with the IO having informed Seet of the death penalty before reading the charge and recording his cautioned statement, and suggests that this was done in a “cruel and calculated” fashion to insist on recording his statement when he was in an “emotional and extremely vulnerable” state.⁹⁸ But this highly emotive suggestion has no basis. It wholly sidesteps the IO’s explanations which I find to be reasonable and credible. The IO clarified that she did not immediately proceed to record Seet’s statement after she saw him crying. She only did so after giving him time to cool down and after having confirmed with him that he was ready to give his statement and felt okay to continue with the process. She made it clear that she was not looking to take advantage of his alleged vulnerable state.⁹⁹

52 On balance, I do not find that sufficient doubt as to the voluntariness of the statements has been raised such that little or no weight should be attached to them. It is also noteworthy that Seet himself never testified in an ancillary hearing pertaining to the statements, given counsel’s unequivocal confirmation that he was not taking issue with the voluntariness of the statements. The veracity of Seet’s claims was thus not tested under cross-examination in an ancillary hearing.

⁹⁷ Closing Submissions of the Accused at para 107.

⁹⁸ Closing Submissions of the Accused at para 106.

⁹⁹ Transcript, 20 September 2022, p 46 ln 1–24.

53 Having carefully examined the evidence, I find that the statements Seet gave are reliable and I accord them appropriate weight. I agree with the Prosecution’s case that the Research Defence is a concocted afterthought. Seet failed to raise the Research Defence in any of his statements to the CNB simply because he had not concocted that defence yet, at that point in time.

The Research Defence is internally inconsistent

54 Seet’s case is that the Drugs were delivered to him “[s]ometime in the start of June” and his plan was to conduct research and development on the Drugs, to extract CBD.¹⁰⁰

55 Yet, there is no evidence that Seet had the means or had any plan in place to conduct research and development and/or to extract the CBD. Seet acknowledged at trial that “it’s difficult and it’s very complex to extract CBD itself”.¹⁰¹ As Seet himself admitted in cross-examination, extracting CBD requires a “complex setup which [he] [had] no idea of”.¹⁰² With respect to the solvent extraction of CBD *oil*, Seet’s evidence was that it was “not that difficult” but in order to conduct extraction on an industrial or bigger scale, one would require “huge equipments which [he] [did] not know of” and did not have.¹⁰³ Neither did he have the expertise to perform pure extraction of CBD oil on such a scale.¹⁰⁴ While Seet claimed that he wanted to get his friends on board to assist with the research venture, he admitted that none of his friends had actually

¹⁰⁰ Transcript, 25 January 2023, p 38 ln 2–3, 9–10; Transcript, 26 January 2023, p 23 ln 4–6.

¹⁰¹ Transcript, 26 January 2023, p 57 ln 15–16.

¹⁰² Transcript, 26 January 2023, p 23 ln 12–13.

¹⁰³ Transcript, 26 January 2023, p 58 ln 17–22.

¹⁰⁴ Transcript, 26 January 2023, p 58 ln 23–25.

joined him at the point of arrest,¹⁰⁵ close to a month after the Drugs had been delivered. Evidently, none of these friends, not even his girlfriend Elizabeth who he claimed was “directly involved”, had any relevant knowledge or expertise either in respect of CBD oil extraction.

56 Despite Seet’s effusive claims of enthusiasm about his new research and development business venture, Seet evidently did not possess the know-how and had no plans to extract CBD from the Drugs. Drawing from his self-professed experience with cooking, he boldly asserts that he knew something about the science involved such that “extracting CBD to achieve CBD oil is not that difficult”.¹⁰⁶ It is extremely telling however that he had not made a single attempt to extract CBD or CBD oil even after having obtained the Drugs for about four weeks. It is equally telling that he never claimed to have actually attempted to extract CBD or CBD oil before. The only tangible action he took in relation to the Drugs was to advertise that he had cannabis for sale (see below at [74]–[76]). As such, and as Seet agrees, the Drugs were left practically untouched from early June 2018 all the way till his arrest on 28 June 2018.¹⁰⁷ Accordingly, I form the view that the Research Defence is internally inconsistent with Seet’s evidence relating to his purported expertise and plans for the Drugs (or lack thereof).

57 I deal with the related point of Seet’s alleged hypomania and its effect on his state of mind at [94]–[111] below, namely that his drug-induced hypomania caused him to form an unrealistic intention to research and develop CBD.

¹⁰⁵ Transcript, 26 January 2023, p 23 ln 7–21.

¹⁰⁶ Transcript, 26 January 2023, p 58 ln 15–18.

¹⁰⁷ Transcript, 26 January 2023, p 59 ln 13–18.

Seet is not a credible witness

58 I find that Seet is not a credible witness and his evidence is riddled with contradictions and inconsistencies.

59 First, Seet’s evidence as to his purpose for possessing the Drugs shifts across his statements given (see [42] above). Significantly, in his long statement recorded on 3 July 2018 (see [37] above), Seet stated that the Drugs were meant for, among other acts, selling, and proceeded to go into the details of the market price of weed in Singapore and how much he would charge his friends. Seet mentioned that “[t]he weed is priced at the higher range if my friends have higher buying power which means they can afford to pay more”. However, just two days later in his long statement recorded on 5 July 2018 (see [41] above), Seet changed his position to state that he “shared [his] cannabis with [his] friends *at cost price or even for free, no cost at all*. So I would say that it is *not for sale*” [emphasis added].

60 Second, Seet was inconsistent as to whether he had willingly accepted the five blocks of cannabis mixture. Originally, in his cautioned statement recorded on 29 June 2018 (see [34] above), Seet’s position was that he was “forced” to accept that amount of cannabis from the supplier and that he was obliged to comply, although he did not order that much. However, Seet’s evidence at trial was that he told the supplier to source for low quality, cheap weed. The supplier came back to him with the price for one block, stating that Seet needed to take five blocks. Seet then “agreed” and “[took] five”.¹⁰⁸ Seet testified unequivocally that the supplier “did not force [him] to buy five books”.¹⁰⁹

¹⁰⁸ Transcript, 26 January 2023, p 27 ln 25–30.

¹⁰⁹ Transcript, 26 January 2023, p 28 ln 19.

61 Third, Seet was also inconsistent as to the details of his alleged personal consumption of the Drugs. In his long statement recorded on 4 July 2018, Seet claimed that the Drugs were for his own consumption and that he consumed “25 grams per day” (see [39] above). “25 grams” was an amendment from “50 grams” in the same statement. In cross-examination, Seet admitted that the reason why he decided to amend it to 25 grams per day was because “50 grammes is a bit unbelievable”.¹¹⁰ Seet’s evidence during examination-in-chief presented yet another inconsistency – he estimated that he smoked “5 grammes to 20, 25 grammes” of cannabis per day.¹¹¹ Seet attempted to cover up the inconsistency in cross-examination by claiming that “25 grams” was in response to the IO’s question “A lot is how much?”.¹¹² However, reading the exchange in context, it is clear to me that Seet’s answer in the long statement meant that he smoked 25 grams per day.

62 Considering the material contradictions and Seet’s shifting positions above, it is manifestly clear that Seet is not a credible witness. The inconsistencies in his evidence pertain to crucial elements of the case against him and/or his defence (albeit he abandoned these lines of defence by the time of trial) – sale of the Drugs, being forced to accept a higher amount of cannabis mixture, and personal consumption of the Drugs.

Seet’s enthusiasm for cannabis does not prove that Seet possessed the Drugs for the purpose of research and development of CBD

63 The Defence paints a vivid picture of Seet as a fervent cannabis enthusiast. According to the Defence, Seet had developed a fascination with

¹¹⁰ Transcript, 26 January 2023, p 45 ln 6–12.

¹¹¹ Transcript, 25 January 2023, p 9 ln 28–30.

¹¹² Transcript, 26 January 2023, p 44 ln 31–p 45 ln 5.

cannabis which went beyond simply smoking it. His interests extended to the cultivation and the multiple uses and/or benefits of CBD.¹¹³ Seet had read various online articles about the possible legalisation of cannabis and its medical uses. He was apprised of cannabis industry developments, and knew about companies that cultivated cannabis (Tilray and Medreleaf) being listed on the New York and Canadian stock exchanges.¹¹⁴ Seet believed that it was only a matter of time before cannabis became legal in Singapore.¹¹⁵ He also claimed that he wanted to be the first one-stop shop for CBD products in Singapore and to be the sole distributor for Southeast Asia for the KANA products.¹¹⁶

64 In March 2018, Seet was in touch with a friend in Canada, Manpreet, about setting up a Canadian company to sell CBD oil.¹¹⁷ He had learned that one litre of CBD oil was selling for US\$150,000, while the costs of producing it was only US\$26,000, such that they could earn a profit of US\$124,000 from the sale of just one litre of CBD oil. While Seet appeared to have some semblance of a vision to bring the business to Singapore, his text messages to Manpreet show that this vision was to be executed only if (or when) cannabis was legalised in Singapore:

preet. don't forget
Canada side
- how to open company
- how much would it cost
- can have foreign partner?

¹¹³ Closing Submissions of the Accused at para 16.

¹¹⁴ Closing Submissions of the Accused at paras 17–18, 33.

¹¹⁵ Closing Submissions of the Accused at paras 38–39.

¹¹⁶ Closing Submissions of the Accused at para 39.

¹¹⁷ Exhibit D5.

what is the tax difference

- dispensary need what license

basically, to co[n]vert the operations in Canada to [S]ingapore, ONCE THE NEWS SAY legal, I want to use the business credibility to back my knowledge. bro... by then.. funds and all.. license to approve? etc etc

65 At trial, Manpreet confirmed as much. The text messages exchanged related to Seet’s plan to start cannabis-related businesses in Canada following the legalisation of cannabis in Victoria.¹¹⁸ Insofar as there was some discussion about setting up a cannabis-related business in Singapore, the discussions were “very vague” and concerned “big dreams” that would only be pursued if cannabis were to be legalised in Singapore.¹¹⁹ Given that cannabis remains illegal in Singapore, Manpreet confirmed that there were no concrete plans discussed between himself and Seet as to opening up a cannabis-related business in Singapore.¹²⁰

66 Seet gave evidence that in April 2018, he allegedly pitched to a family friend, Henry, the possibility of cultivating cannabis in Indonesia as they were aware of an opportunity that was being sponsored by the Indonesian government to cultivate land in Borobudur.¹²¹ Notably, this did not involve any extraction or research and development of CBD in Singapore. Further, and ultimately, Henry informed Seet that this cannabis cultivation plan could not be carried out in Indonesia due to certain regulations.¹²²

¹¹⁸ Transcript, 30 January 2023, p 11 ln 2–19, p 14 ln 6–8.

¹¹⁹ Transcript, 30 January 2023, p 14 ln 9–19.

¹²⁰ Transcript, 30 January 2023, p 14 ln 20–23.

¹²¹ Exhibit D6; Transcript, 25 January 2023, p 26 ln 19–29, p 27 ln 10–21, p 30 ln 1–10.

¹²² Transcript, 25 January 2023, p 30 ln 27–p 31 ln 3.

67 Seet also gave evidence that in May or June 2018, after Henry communicated that the cannabis cultivation plan could not be carried out in Indonesia, Seet approached Kertar, a lawyer whom Seet was acquainted with as he had acted for Seet’s sister prior in a separate civil matter.¹²³ According to Seet, he had hoped that Kertar could be “the exclusive guy for [his] ... legal matters” relating to the cultivation of cannabis in Singapore.¹²⁴ Seet claimed that he requested Kertar to arrange an appointment with HSA and CNB so that Seet could know where he stood with the relevant government bodies in Singapore and talk about “cannabis cultivation and---or even like opening a laboratory to--to patent the cannabis genetics or whichever in the food chain that ... Singapore ... can have a piece of the pie of the cannabis industry”.¹²⁵

68 Kertar’s evidence was that Seet spoke to him about the legalisation of cannabis in some countries, how some cafes have cannabis on their menu and, more generally, about cannabis, the benefits of cannabis and its medicinal values.¹²⁶ Seet then asked Kertar whether it was possible to start a cafe serving cannabis in Singapore, to which Kertar told him that that was “virtually impossible” and to “take it out of his head”.¹²⁷ Seet also told Kertar that it was possible for him (*ie*, Seet) to write to the HSA and CNB to get the cannabis extracts and market it as a medicinal product.¹²⁸ Kertar advised Seet that he could not help Seet and that it would be a futile exercise.¹²⁹ Seet does not dispute

¹²³ Transcript, 25 January 2023, p 33 ln 15–p 34 ln 14; Transcript, 3 February 2023, p 3 ln 3–8.

¹²⁴ Transcript, 25 January 2023, p 33 ln 27–29, p 34 ln 2–4, 27.

¹²⁵ Transcript, 25 January 2023, p 34 ln 16–30.

¹²⁶ Transcript, 3 February 2023, p 4 ln 1–6.

¹²⁷ Transcript, 3 February 2023, p 4 ln 16–24.

¹²⁸ Transcript, 3 February 2023, p 4 ln 26–28.

¹²⁹ Transcript, 3 February 2023, p 5 ln 1–4.

Kertar’s evidence on this point. His own account of the meeting with Kertar was that Kertar was “quite s[c]eptical” and “probably [thought] [he] [was] nuts”, telling Seet that if he wanted to pursue such plans, he would have to “leave the country and go far away”.¹³⁰

69 I agree with the Prosecution that the exchange between Kertar and Seet shows that Seet only had some vague ideas at best about starting a cannabis-related business in Singapore and contemplated approaching the relevant authorities about this.¹³¹ However, even the broad contours of Seet’s cannabis vision evidently had not been thought through – Seet spoke about “cannabis cultivation” in the abstract, opening a cannabis laboratory, patenting cannabis genetics and something related to cannabis in the “food chain”. Kertar was understandably sceptical. He took pains to dissuade Seet from embarking on any of these ventures in Singapore, since cannabis has not been legalised here. Seet himself was evidently concerned about that, given that he wanted to arrange an appointment with the HSA and CNB to know where he stood.

70 In my view, Seet’s evidence does suggest that he was a cannabis enthusiast. Not only was he an enthusiastic cannabis consumer, he was keen to explore the prospect of starting a cannabis-related business in Singapore. However, in deciding whether Seet has rebutted the presumption, the pivotal question is this: has Seet demonstrated on the balance of probabilities what he intended to use the Drugs in his possession for? Seet’s grand business ambitions were contingent on cannabis being legalised in Singapore to begin with. His purported plans were vague, nebulous and ultimately undeveloped. Given the range of scattershot and unfocused ideas that Seet had, from patenting cannabis

¹³⁰ Transcript, 25 January 2023, p 35 ln 4–8.

¹³¹ Prosecution’s Closing Submissions at para 84.

genetics to something related to cannabis in the “food chain”, and the fact that some of his ideas did not even have anything to do with Singapore, I find it difficult to believe that Seet had any concrete ideas or plans for the research and development (including the production and/or extraction) of CBD in Singapore that he could work with and was ready to act on, much less specifically in relation to the Drugs. Any such ideas or plans existed only within his imagination. Nothing had translated beyond mere talk into action. In any case, Seet’s exchanges with Manpreet and Kertar reveal that any possible research and development activities were contemplated to take place only if and after cannabis was legalised in Singapore.

71 Accordingly, I find that Seet has not proved on a balance of probabilities that he possessed the Drugs for the purposes of research and development and/or production and/or extraction of CBD. I agree with the Prosecution’s submission that in any event, Seet may well be a “cannabis enthusiast” and concomitantly also an illicit trafficker of controlled drugs, as his statements indicate.¹³² These two characterisations of Seet are not binary. It is therefore incorrect for the Defence to say that the court must make a “stark choice” between them.¹³³ Indeed, quite apart from not successfully rebutting the presumption in s 17 of the MDA, there is also cogent evidence that shows that Seet possessed the Drugs for the purpose of trafficking.

The totality of the evidence is consistent with Seet having possessed the Drugs for the purpose of trafficking

72 It bears emphasising that the burden lies on Seet to rebut the presumption of trafficking under s 17 of the MDA in the first place. The

¹³² Prosecution’s Closing Submissions at para 86.

¹³³ Closing Submissions of the Accused at para 30.

Prosecution, in relying on the presumption of trafficking, does not have to prove the purpose of trafficking.

73 It is not disputed that Seet previously trafficked cannabis.¹³⁴ I note that the Prosecution appears to rely to some extent on the entries in Seet’s notebooks which contain a list of names with figures written next to the names, as well as Seet’s testimony during cross-examination on those entries.¹³⁵ The Prosecution argues that these show that Seet had been advertising the sale of cannabis mixture to “a large number of customers shortly before he received the Drugs in early June 2018”. However, it is not clear when these notebook entries were made. Seet raised a valid point in cross-examination that these entries could have been made months before he was arrested,¹³⁶ which could be consistent with Seet’s case that he had previously sold drugs as a *bona fide* trafficker for profit and ceased doing so in the month or two preceding his arrest.¹³⁷

74 Nevertheless, I find that the totality of all the other evidence before me is consistent with Seet having possessed the Drugs for the purpose of trafficking. The phone records compiled in the Prosecution’s *aide-memoire*¹³⁸ tendered during Seet’s cross-examination on 26 January 2023 show that on 30 May 2018, Seet had advertised the sale of weed to “Charles”, “Ryan”, “Paul Ding Dan”, “JW”, “Achu”, “Nat”, “Jia Jian Hp”, “Chris”, “Jacky Luke Coronation”, “Kenneth Kang”, “Derrick”, “Tao Xiao Tao”, “Sarav”, “L Eeess T”, “Xavier”,

¹³⁴ Closing Submissions of the Accused at para 69.

¹³⁵ AB at pp 470–471, 475, 490, 493, 501; Prosecution’s Closing Submissions at para 88.

¹³⁶ Transcript, 26 January 2023, p 73 ln 4–6.

¹³⁷ Transcript, 26 January 2023, p 25 ln 15–26.

¹³⁸ Prosecution’s *aide-memoire* at pp 30–50.

“Chao”, “Eric”, “Matt”, and “James”. As previously noted above at [12], the advertisement read:

Spread the love guys LOL... Score some beautiful brick w**d @
420/20 bags of 2.5g. PM to get your personal discount NOW!
#PeaceOut

New beauty products with CPD Oil Infused Night Mask on the
market soon!

New THC Gummies will be arriving in 3 to 5 days. Remember
to pm to get your pricing!!

In the course of cross-examination, Seet confirmed that he was advertising the sale of weed to these persons.¹³⁹ On 2 June 2018, “James” responded and messaged Seet saying “i need 1b”. Seet replied “Roger” and said that he would “arrange”.¹⁴⁰ Seet’s evidence at trial was that “1b” meant “[o]ne brick of weed”.¹⁴¹ Seet also referred to himself as the “Ganja man”, when “Jia Jian Hp” asked who he was.¹⁴² Plainly, Seet made no attempt to disguise the fact that this was an advertisement for the sale of weed.

75 The timing of this barrage of advertisements Seet sent on 30 May 2018 is remarkable to say the least, given that the Drugs were delivered to Seet in early June 2018.¹⁴³ I agree with the Prosecution that the proper inference to be drawn is that the Drugs that Seet received in early June 2018 were meant to be sold to Seet’s customers should any of them respond to his advertisement for the sale of “beautiful brick weed”.

¹³⁹ Transcript, 26 January 2023, p 80 ln 2–3, 8–10.

¹⁴⁰ Prosecution’s *aide-memoire* at pp 42–43, SAB-2 at p 1442.

¹⁴¹ Transcript, 26 January 2023, p 84 ln 22–24.

¹⁴² Transcript, 26 January 2023, p 81 ln 9–12; Prosecution’s *aide-memoire* at p 37, SAB-2 at p 1209.

¹⁴³ Transcript, 26 January 2023, p 85 ln 10–16.

76 This coheres with Seet’s cautioned statement given on 29 June 2018, a day after his arrest, that the Drugs were “for helping [his] “damaged” friends who need help and sense of belonging and also to give them a sense of security”. I agree with the Prosecution that this refers to supplying the cannabis mixture to them for their consumption and enjoyment. The intended sale (or supply) of the Drugs is also consistent with Seet’s subsequent long statements. He stated, first, on 3 July 2018 that the Drugs were meant for, among other things, sharing and selling, where the selling price depended on the buying power and financial situation of his friends. He subsequently stated, however, on 5 July 2018 that the Drugs were meant for sharing at cost price or for no cost at all. Be that as it may, sharing the Drugs, whether by reselling at cost price or by giving, sending or distributing them, would still amount to acts of trafficking as defined under s 2 of the MDA.

77 It is also pertinent to note that drug-related paraphernalia commonly associated with trafficking activities, such as four stained knives (“B1H10”, “B1H11”, “B1H12” and “F2”) and three stained digital weighing scales (“B1H3”, “E4A” and “F3”), were among the various exhibits seized upon Seet’s arrest.¹⁴⁴ Seet claimed in his statement recorded on 5 July 2018 that the digital weighing scales were meant for weighing gelatin powder for cooking¹⁴⁵ or for weighing pasta.¹⁴⁶ Seet was not cross-examined on his claims as to the intended use of these items. These claims are, however, plainly contrived and incapable of belief, given that their alleged use for such purposes is incongruous with the fact that the items were found together with drugs and other drug-related

¹⁴⁴ AB at pp 277–281.

¹⁴⁵ AB at p 454 at A81.

¹⁴⁶ AB at p 457 at A109.

paraphernalia. In any case, Seet conceded that he used one of the weighing scales “to weigh weed”.¹⁴⁷

78 Assessing the evidence on the whole, I come to the view that Seet did possess the Drugs for the purpose of trafficking. This militates further against finding that Seet has successfully rebutted the presumption of trafficking on a balance of probabilities based on his Research Defence.

79 In my judgment, the fact that the Drugs were left mostly untouched for almost a month does not advance Seet’s defence. The Defence contends that this undermines the claim that Seet had the Drugs for the purpose of trafficking.¹⁴⁸ Pursuant to s 17 of the MDA, the burden is on the Defence to show on a balance of probabilities that Seet possessed the Drugs for some other purpose. The Research Defence is undermined insofar as the Drugs remained untouched and did not go through any CBD production and/or extraction process as Seet contends the Drugs were meant for and that Seet was so highly enthusiastic about.

80 It is also entirely plausible that although the Drugs were meant for sale and/or sharing, the sale had not commenced yet. Seet need not have been in a hurry to sell (or share), or there may not have been strong demand for the Drugs to begin with at the relevant time. This coheres with the fact that he had travelled to Thailand for some ten days after putting out his advertisements for sale of “beautiful brick weed” and obtaining the Drugs thereafter from his supplier (one

¹⁴⁷ AB at p 457 at A109.

¹⁴⁸ Closing Submissions of the Accused at para 75.

“Macha”).¹⁴⁹ There is also nothing to suggest that the cannabis mixture would go stale within the month or would not be capable of being sold thereafter.

81 The short point is that Seet may not have trafficked the Drugs yet before his arrest, but this does not indicate that he did not intend to do so. It certainly does not, by itself, rebut the Prosecution’s case that he possessed the Drugs for the purpose of trafficking.¹⁵⁰ The totality of the evidence weighs heavily against Seet and shows up the lack of credibility of the Research Defence.

Hypomania

82 Seet’s case is that he was suffering from a drug-induced hypomanic episode at the time of the offence, which caused him to form the unrealistic intention to attempt to produce and/or extract CBD from the Drugs.¹⁵¹

83 For the reasons below, I am of the view that Seet has not shown on a balance of probabilities that he suffered from a drug-induced hypomanic episode at the time of the offence.

The expert opinions

84 Since both the Prosecution and the Defence rely heavily on the reports of their respective experts for their cases on whether Seet suffered from a hypomanic episode, it is useful to briefly summarise each of the experts’ opinions.

¹⁴⁹ Transcript, 25 January 2023, p 38 ln 5–7.

¹⁵⁰ Closing Submissions of the Accused at para 73.

¹⁵¹ Closing Submissions of the Accused at para 68.

85 The Defence relies on a report by Dr Rajesh dated 11 March 2023. At the outset, I note that Seet did not appear to have contemplated calling for expert evidence (whether from Dr Rajesh or any other medical expert) until after the Prosecution had closed its case on 7 November 2022. Only two defence witnesses, namely Seet and Kertar, were slated to testify if the defence was called. Dr Rajesh examined Seet on 16 January 2023, 9 February 2023 and 14 February 2023. Since 2015, Dr Rajesh has been employed as a senior consultant psychiatrist at Promises (Winslow) Clinic. Prior to that, he was a consultant psychiatrist at the IMH from 2009 to 2015. While employed at Promises Healthcare, Dr Rajesh has also held concurrent roles as, among others, a prison psychiatrist for the Singapore Prison Service from 2015 to 2021.¹⁵² Apart from interviewing Seet, Dr Rajesh also interviewed the following persons:

- (a) Seet’s mother on 28 January 2023;¹⁵³
- (b) Seet’s elder sister (“Chantel”) on 28 January 2023;¹⁵⁴
- (c) Seet’s half-sister (“Karen”) on 28 January 2023;¹⁵⁵ and
- (d) Seet’s friend (Mr Darius Wong) on 13 February 2023.¹⁵⁶

86 Dr Rajesh diagnosed Seet as suffering from a drug-induced hypomanic episode, with onset sometime in March or April 2018, which persisted at the

¹⁵² Exhibit D9 at paras 2–3.

¹⁵³ Exhibit D9 at paras 23–24.

¹⁵⁴ Exhibit D9 at para 25.

¹⁵⁵ Exhibit D9 at paras 26–27.

¹⁵⁶ Exhibit D9 at para 28.

material time of the alleged offence due to Seet’s continuing drug use.¹⁵⁷ Dr Rajesh’s diagnosis was based on, among other things, Seet’s plans to start several businesses at the same time, his grandiose ideation, decreased sleep, increased energy and increased sexual drive.¹⁵⁸ Dr Rajesh further opines that hypomania “is seen as part of bipolar disorder type 2”.¹⁵⁹ While Dr Rajesh accepts that the existence of an abnormality of mind and whether this abnormality of mind substantially impaired Seet’s mental responsibility are questions for the court, in his opinion, Seet’s substance-induced hypomania episode is an abnormality of mind from a psychiatric perspective, was caused by injury (substance-induced) and substantially impaired Seet’s mental responsibility for his actions at the material time.¹⁶⁰

87 The Prosecution relies on the psychiatric assessment report of Dr Koh dated 20 July 2018. Dr Koh is a psychiatrist and senior consultant attached to the Department of Forensic Psychiatry at the IMH, and examined Seet on 12, 16 and 19 July 2018. Dr Koh also interviewed Seet’s mother and Karen on 18 July 2018. In his report, Dr Koh opined that their account of him did not suggest that Seet had a major mood or psychotic disorder, or intellectual impairment. Dr Koh concluded that while Seet has substance use disorder of methamphetamine and cannabis, he has no other major mental disorder, is not intellectually disabled and not of unsound mind.¹⁶¹

¹⁵⁷ Exhibit D9 at paras 43, 49 and 56.

¹⁵⁸ Exhibit D9 at para 35.

¹⁵⁹ Exhibit D9 at para 43.

¹⁶⁰ Exhibit D9 at paras 58–59.

¹⁶¹ Exhibit P166 at para 8; AB at pp 249–251.

88 Dr Koh also issued a further medical report dated 24 July 2023 in response to Dr Rajesh’s Report, and after interviewing Seet on 19 July 2023.¹⁶² In that report, Dr Koh disagreed with Dr Rajesh’s diagnosis of Seet as having a drug-induced hypomanic episode. Dr Koh maintains that Seet had substance use disorder, that that disorder was a self-induced condition, and that the condition does not cause and had not caused significant impairment of Seet’s mental responsibility for his actions amounting to the alleged offence of drug trafficking.¹⁶³

The parties’ cases

89 Seet relies on Dr Rajesh’s Report to argue that he was suffering from a drug-induced hypomanic episode at the material time. However, Seet does not seek to rely on his medical condition to avail himself of the alternative sentencing regime under s 33B(3)(b) of the MDA. Rather, the presence of a hypomanic episode is said to support Seet’s Research Defence, *ie*, that he was in possession of the Drugs for research and development purposes, by explaining Seet’s state of mind and lending credence to the fact that Seet would have formed such an intention to research and develop CBD.¹⁶⁴

90 The Defence submits that Seet did suffer from a drug-induced hypomanic episode at the material time. Based on Dr Rajesh’s Report, this can be seen from Seet’s inflated self-esteem and grandiosity, increase in goal-related activity, and significant impairment of judgment in how he kept the cannabis in the boot of his car.¹⁶⁵ Seet had also undertaken risky activities in the months

¹⁶² Exhibit P366 at para 4; Transcript, 17 October 2023, p 3 ln 19–22.

¹⁶³ Exhibit P366 at para 12.

¹⁶⁴ Closing Submissions of the Accused at para 68.

¹⁶⁵ Closing Submissions of the Accused at para 65.

leading up to his arrest, such as taking steps to set up a cannabis business in Singapore and having sexual encounters with multiple escorts. Seet was also aggressive towards Chantel who described his behaviour as out of character.¹⁶⁶ All of these satisfy the symptoms for the diagnosis of hypomania in the DSM-5, namely an increase in goal-directed activity, recklessness, and excessive involvement in activities that have a high potential for painful consequences.

91 With regard to the expert evidence, Seet argues that Dr Koh’s first report “is at worst misleading and at best factually inaccurate”.¹⁶⁷ For example, Dr Koh’s conclusion that there was no evidence to support a hypomanic episode is contradicted by his own medical notes, where Karen had informed Dr Koh of Seet’s plans to start a cannabis business in Singapore.¹⁶⁸ Dr Koh had also wrongly equated hypomania with mania, which is a more severe condition.¹⁶⁹ Finally, Dr Rajesh’s Report should be preferred as it is more detailed than Dr Koh’s reports.¹⁷⁰

92 The Prosecution submits that Seet did not suffer from a substance-induced hypomanic episode at the material time. The Prosecution argues that Dr Rajesh’s Report should be rejected as the report was mainly premised on Seet’s self-reported information.¹⁷¹ The information provided by Seet that formed the basis for Dr Rajesh’s diagnosis, such as his consumption of cocaine, is internally inconsistent and unreliable. Dr Rajesh had also failed to document

¹⁶⁶ Exhibit D9 at para 25.

¹⁶⁷ Closing Submissions of the Accused at para 57.

¹⁶⁸ Closing Submissions of the Accused at para 61.

¹⁶⁹ Closing Submissions of the Accused at paras 64 and 67.

¹⁷⁰ Closing Submissions of the Accused at para 67.

¹⁷¹ Prosecution’s Closing Submissions at paras 95 and 107.

Seet’s rate of consumption of cocaine.¹⁷² Further, Dr Rajesh also showed a propensity to speculate when cross-examined, casting doubt on the reliability of his conclusions.¹⁷³

93 In contrast, Dr Koh had interviewed Seet shortly after his arrest and his opinion that Seet was not suffering from a drug-induced hypomanic episode was corroborated by Seet’s investigative statements, which appeared logical, organised, measured and knowledgeable.¹⁷⁴ Dr Koh’s opinion should thus be accepted as he had properly reviewed Seet’s account and considered other sources of available information.¹⁷⁵

Whether Seet suffered from hypomania

94 In my judgment, Seet has not shown on a balance of probabilities that he suffered from a drug-induced hypomanic episode at the time of the offence. I agree with the Prosecution that Dr Rajesh’s diagnosis rests on inconsistent self-reported information from Seet. These were reported to Dr Rajesh more than four and a half years after Seet’s arrest. In any case, Seet’s actions which are purportedly symptoms of drug-induced hypomania can be explained when seen in context.

95 I agree with the Prosecution that Dr Rajesh’s diagnosis of Seet was unreliable as it was based substantially on self-reported information, such as his “racing thoughts”.¹⁷⁶ Where this is so, the Court of Appeal has observed in *Teo*

¹⁷² Prosecution’s Closing Submissions at paras 110–111.

¹⁷³ Prosecution’s Closing Submissions at para 117.

¹⁷⁴ Prosecution’s Closing Submissions at para 127.

¹⁷⁵ Prosecution’s Closing Submissions at para 136.

¹⁷⁶ Exhibit D9 at paras 32 and 35.

Ghim Heng v Public Prosecutor [2022] 1 SLR 1240 at [39] that the court is required to “carefully assess the accused person’s self-reported symptoms in the light of ‘[a]dditional information from people who would ordinarily interact with the [accused person]’, where available” (citing *Ong Pang Siew v Public Prosecutor* [2011] 1 SLR 606 at [43]). One reason for this is that “it is not uncommon for accused persons to exaggerate or malingering symptoms in order to escape liability”. This risk is exacerbated by how “the diagnostic criteria of many diseases and disorders are readily available through the Internet”.

96 On that basis, I find that Seet’s self-reported information is internally inconsistent and unreliable. It is important that Dr Rajesh diagnosed Seet as suffering from *drug-induced* hypomania. Thus, Seet’s account of his cocaine consumption is material. However, Seet had provided different accounts regarding his rate of cocaine consumption. First, he reported consuming 0.5g of cocaine in his long statement taken on 5 July 2018.¹⁷⁷ Next, he informed Dr Koh in his July 2018 interview that he was not consuming cocaine at the time of the offence.¹⁷⁸ Eventually, he said that he consumed 0.1g of cocaine in his July 2023 interview with Dr Koh.¹⁷⁹ Dr Rajesh acknowledged the discrepancies, but rationalised that Seet had likely forgotten the exact amount of cocaine consumed given the passage of time.¹⁸⁰ Another internal inconsistency in Seet’s account was in how he had obtained the cocaine he consumed. While Dr Rajesh recorded that Seet would purchase cocaine from Bangkok and bring it back to Singapore,¹⁸¹ this is at odds with Seet’s account in his long statement taken on

¹⁷⁷ AB at p 448 at A26.

¹⁷⁸ AB at p 250 at para 3.

¹⁷⁹ Exhibit P366 at para 5a.

¹⁸⁰ Prosecution’s Closing Submissions at para 111; Transcript, 16 October 2023, p 61 ln 24–p 62 ln 29.

¹⁸¹ Exhibit D9 at para 21.

5 July 2018, where he described how he purchased cocaine from a Thai Nigerian at Changi Airport Terminal 1 upon returning from overseas.¹⁸² To my mind, these inconsistencies in Seet’s account undermine the reliability of Seet’s self-reported information.

97 Moreover, Dr Rajesh relies on an article titled “Comorbidity between hypomania and substance use disorders” (exhibit D10) to support his proposition that cocaine use triggers hypomania. To my mind, the Prosecution correctly submits that the article does not support any inference regarding a link between cocaine consumption and hypomania.¹⁸³ I note that no reference to the article was made in Seet’s closing submissions. As such, I need not elaborate further on this.

98 In any case, upon carefully assessing Seet’s self-reported symptoms, I prefer Dr Koh’s expert opinion over that of Dr Rajesh’s, namely that Seet does not fulfil the DSM-5 criteria (see above at [90]) of a substance-induced hypomanic disorder. It is important to note that Dr Rajesh’s diagnosis of Seet was based substantially on the claimed peculiarities in Seet’s behaviour. However, Seet’s ostensibly unusual actions can be explained when viewed in context.

99 For example, one basis for Dr Rajesh’s diagnosis is Seet’s increased spending of money, such as Seet’s renting of the BMW despite having purchased his own car in the beginning of 2018.¹⁸⁴ While this appears at first blush to be unnecessarily extravagant such that it could be described as

¹⁸² AB at pp 448–449.

¹⁸³ Prosecution’s Closing Submissions at paras 122–125.

¹⁸⁴ Exhibit D9 at para 30.

“excessive involvement in an activity with a high potential for painful consequences”, it seems much less so when seen in context. Seet worked as a real estate agent. When Seet was interviewed by Dr Koh in July 2023, Seet explained that he had rented the BMW as he needed “a more impressive car to pick clients up in compared to his Chevrolet, which he let his mother and girlfriend drive”.¹⁸⁵ Seet was also in generally good financial health, earning \$5,000 to \$10,000 a month with no financial debt.¹⁸⁶ His renting of the BMW, a hatchback model costing \$420 a week,¹⁸⁷ may therefore not be described as an activity with a “high potential for painful consequences” when seen in this context. It was certainly not unreasonable given Seet’s occupation and financial circumstances.

100 I also do not find it unusual that Seet had chosen to store the Drugs in the BMW since he had been travelling for a considerable period in Thailand just before his arrest, after obtaining the Drugs from his supplier. He explained to Dr Koh that he had kept the Drugs in his car rather than at home because he did not want to be arrested at home as his mother was living there.¹⁸⁸ This is a perfectly plausible reason which Seet himself had given for storing the Drugs in the BMW. I do not see how this reflects any impairment of judgment or risk-taking, contrary to what Dr Rajesh suggests.

101 Dr Rajesh also observes that Seet demonstrated an increase in goal-directed activity and racing thoughts, allegedly investing about RM 15,000 to start a prostitution business in Malaysia and making plans to start a pet

¹⁸⁵ Exhibit P366 at para 5b.

¹⁸⁶ Exhibit D9 at para 10.

¹⁸⁷ AB at p 393 para 15; Transcript, 16 October 2023, p 41 ln 24–26.

¹⁸⁸ Exhibit P366 at para 10.

grooming business sometime in March or April 2018.¹⁸⁹ These are again not unusual at all when one considers the context. As the Prosecution points out, the sum of RM 15,000, when converted to Singapore dollars, only amounts to around S\$5,000, being the lower bound of Seet’s monthly income.¹⁹⁰ Seen in context, Seet’s investment into a business quantified by a mere one month of his income cannot be described as excessive involvement in an activity with a high potential of painful consequences or elevated risk. As for the pet grooming business, Seet clarified during his interview with Dr Koh that the business was only at the exploratory phase and he had not made any major expenses towards it.¹⁹¹ Dr Rajesh had also taken into account Seet’s alleged plans to set up a Kombucha business, but no reference to any such plans was made in Seet’s closing submissions. Hence I need say no more about the alleged Kombucha business plans. As for the frequency of Seet’s sexual liaisons, these are irrelevant; Dr Rajesh himself was not prepared to say that these were “excessive” but only “inappropriate” in his opinion.¹⁹²

102 All considered, Dr Rajesh’s Report is only more detailed but not more persuasive than Dr Koh’s. I accept that Dr Koh’s assessment is more objective and more consistent with the available evidence instead. Dr Koh had taken into account Seet’s investigative statements which appeared to be logical and organised, as well as the discrepancies in Seet’s account to Dr Rajesh. In my opinion, Dr Koh justifiably found that while Seet had mild manic tendencies, these were not elevated to a severe level of hypomania, and he was not psychotic or impaired in his judgment and cognitive functioning. Dr Koh also had the

¹⁸⁹ Exhibit D9 at paras 32–33.

¹⁹⁰ Transcript, 16 October 2023, p 50 ln 18–p 51 ln 3.

¹⁹¹ Exhibit P366 at para 5d.

¹⁹² Transcript, 16 October 2023, p 53 ln 18–27.

benefit of a more contemporaneous series of interviews with Seet, not long after his arrest in June 2018. I therefore find that Seet has not proved on a balance of probabilities that he suffered from a drug-induced hypomanic episode at the time of the offence.

Section 33B(3)(b) of the MDA

103 In order to qualify for the alternative sentencing regime under s 33B(3)(b) of the MDA, an accused person must first prove that he is a courier (s 33B(3)(a) of the MDA). He must then establish the following cumulative requirements on a balance of probabilities (*Nagaenthran a/l K Dharmalingam v Public Prosecutor and another appeal* [2019] 2 SLR 216 (“*Nagaenthran*”) at [21]):

- (a) he was suffering from an abnormality of mind (“the first limb”);
- (b) the abnormality of mind (i) arose from a condition of arrested or retarded development of mind; (ii) arose from any inherent causes; or (iii) was induced by disease or injury (“the second limb”); and
- (c) the abnormality of mind substantially impaired his mental responsibility for his acts and omissions in relation to his offence (“the third limb”).

104 In the Closing Submissions of the Accused, Seet suggests that the issue of s 33B(3)(b) of the MDA “does not arise at this stage”.¹⁹³ With respect, this is misconceived. Any argument premised on Seet having suffered from an abnormality of mind so that s 33B(3)(b) may be brought into consideration is a

¹⁹³ Closing Submissions of the Accused at para 68.

non-starter, since the requirements in s 33B(3)(a) and s 33B(3)(b) are conjunctive. Seet has never claimed that he was a mere courier.

105 For completeness, I should add that even if Seet was able to show that he suffered a hypomanic episode, he would have failed to show that it arose from one of the recognised causes prescribed in the second limb outlined in *Nagaenthran* in connection with s 33B(3)(b) of the MDA. Dr Rajesh’s diagnosis is that Seet’s hypomania was *drug-induced*.¹⁹⁴ In that regard, the law is clear that s 33B(3)(b) of the MDA is not intended to apply to accused persons suffering from “transient or even *self-induced* illnesses that have no firm basis in an established psychiatric condition” [emphasis added] (*Nagaenthran* at [31]; *Roszaidi bin Osman v Public Prosecutor* [2023] 1 SLR 222 (“*Roszaidi*”) at [58]). Seet’s hypomania, being a consequence of his own drug consumption, is clearly self-induced. It did not arise from any of the causes prescribed in the second limb.

106 As for the third limb outlined in *Nagaenthran*, the key inquiry is whether the abnormality of mind had an *influence* on the accused person’s actions (*Nagaenthran* at [33]). The impairment must be substantial but need not rise to the level of amounting to the defence of unsoundness of mind. What is required is an impairment of the mental state which is real and material. It may suffice that the accused faced real difficulty in controlling his actions (*Roszaidi* at [111]).

107 Moreover, the abnormality of mind need not affect every aspect of the accused person’s life, but only the aspect relevant to the commission of the offence. An accused may be rational enough to know what he is doing, the

¹⁹⁴ Exhibit D9 at paras 35, 49 and 56.

wrongness of that act, that severe consequences would follow the commission of that offence, and that he should take steps to mitigate the risks of engaging in that act, and yet have his *ability* to control his actions in relation to the offence substantially impaired (*Roszaidi* at [122]–[123]).

108 In my judgment, Seet would also fail on the third limb.

109 First, I find that Seet’s basic cognitive ability and moral and legal cognition were not impaired. Seet stated in his statement recorded on 29 June 2018 that he had ordered CBD oil because he knew that it was legal in Singapore.¹⁹⁵ In his statement taken on 5 July 2018, he also described how he had intended to approach a CNB officer to “know where I stand in terms of the law and legislation on cannabis”.¹⁹⁶ Moreover, Seet also contacted Kertar to seek legal advice on starting a cannabis business in Singapore.¹⁹⁷ These acts demonstrate that Seet had basic cognitive ability and moral and legal cognition.

110 Second, I find that Seet also had control over his actions. In addition to the examples cited above, Seet described in his statement taken on 3 July 2018 how he had kept the bag containing the Drugs in his maid’s bedroom rather than his own bedroom, as he was certain that officers would not search his maid’s bedroom if his residence were to be raided.¹⁹⁸ Seet also explained to Dr Koh that he had kept the Drugs in his car for several days because he did not want to be arrested by the CNB at his residence as his mother was living there.¹⁹⁹ To my mind, these examples clearly demonstrate that Seet was aware of the nature and

¹⁹⁵ AB at p 389 at para 6.

¹⁹⁶ AB at p 452 at A69.

¹⁹⁷ Transcript, 3 February 2023, p 3 ln 27–p 4 ln 20.

¹⁹⁸ AB at p 396 at para 24.

¹⁹⁹ Exhibit P366 at para 10.

consequences of his actions, and was able to take considered and controlled action to minimise his chances of arrest.

111 Therefore, I find that Seet was not suffering from an abnormality of mind. There was no impairment of his mental responsibility for his acts in relation to his offence.

Conclusion

112 For the reasons set out above, I find that Seet has not proved on a balance of probabilities that he had possessed the Drugs for the purpose of research and development, including the production and/or extraction, of CBD, and not for the purpose of trafficking. Accordingly, Seet has failed to rebut the presumption of trafficking under s 17 of the MDA. I am therefore satisfied that the Prosecution has proved the charge of possession for the purpose of trafficking beyond reasonable doubt. Seet is thus found guilty and convicted.

113 As the alternative sentencing regime in s 33B of the MDA is inapplicable in the present case, I impose the mandatory death penalty on Seet.

See Kee Oon
Judge of the Appellate Division

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