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

[2025] SGHC 48

Criminal Case No 4 of 2025

Between

Public Prosecutor

And

Ng Soon Kiat

GROUNDS OF DECISION

[Criminal Procedure and Sentencing — Sentencing]
[Criminal Law— Offences — Rioting]
[Criminal Law — Statutory offences — Misuse of Drugs Act]
[Road Traffic — Offences — Drink driving]

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v
Ng Soon Kiat

[2025] SGHC 48

General Division of the High Court — Criminal Case No 4 of 2025
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S Mohan J:

Introduction

1 On 3 February 2025, the accused, Ng Soon Kiat (the "Accused"), pleaded guilty before me to the following three charges:

> That you, NG SOON KIAT,
>
> 1st Charge
>
> on 8 September 2020 at about 1.18 pm, at 445 Fajar Road, Fajar Shopping Centre, 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 delivering four (4) packets containing a total of not less than 970.9g of crystalline substance, which was analysed and found to contain not less than 166.99g of methamphetamine, to the POPStation locker G2 at the said Fajar Shopping Centre, without any authorisation under the MDA or the Regulations made thereunder, and you have thereby committed an offence under section 5(1)(*a)* and punishable under section 33(1) of the MDA.

> 2nd Charge
>
> are charged that you, on 18 November 2018 at about 5.33am, in Club V5 at 21 Cuscaden Road, Ming Arcade, Singapore, together with Edmund Kam Wei Liang, Dino Teo Wei Chiang, Tan Hong Sheng, Lew Wei, and others unknown, were members of an unlawful assembly whose common object was to voluntarily cause hurt to one [Victim], and in the prosecution of the common object of such assembly, one or more of you used violence, *to wit,* by punching and kicking the said [Victim], and you have thereby committed an offence punishable under section 147 of the Penal Code (Cap 224, 2008 Rev Ed).
>
> …
>
> 7th Charge
>
> are charged that you, on 30 August 2020 at about 3.27 am, along Clementi Avenue 6 towards the Ayer Rajah Expressway, Singapore, whilst driving a motor vehicle bearing registration number [xxxx35H], did have so much alcohol in your body that the proportion of it in your breath, *to wit,* not less than 65 microgrammes of alcohol in 100 millilitres of breath, exceeded the prescribed limit of 35 microgrammes of alcohol in 100 millilitres of breath, and you have thereby committed an offence punishable under section 67(1)(*b)* read with section 67(2)(*a)* of the Road Traffic Act (Cap 276, 2004 Rev Ed).
>
> [emphasis removed]

2 I shall refer to the first proceeded charge (*ie*, the 1st Charge) as the "Trafficking Charge", the second proceeded charge (*ie*, the 2nd Charge) as the "Rioting Charge", and the third proceeded charge (*ie*, the 7th Charge) as the "Drink Driving Charge".

3 The Accused consented to five other charges being taken into consideration ("TIC") for the purpose of sentencing. Four of them were for being a member of an unlawful society at various periods of time, which were offences punishable under s 14(3) of the Societies Act (Cap 311, 1985 Rev Ed) and the Societies Act (Cap 311, 2014 Rev Ed). The last TIC charge (*ie*, the 8th Charge) was for driving without due care and attention, an offence under

s 65(1) of the Road Traffic Act (Cap 276, 2004 Rev Ed) ("RTA") and punishable under s 65(5) of the RTA.

4 In the course of preparing these grounds, I noted that the 8th Charge contained a typographical error. While the Accused was charged with driving "without due care and attention", the charge referred to s 65(1)(*b*) of the RTA, which is for the offence of driving "without reasonable consideration". The correct charging provision should have been s 65(1)(*a*) of the RTA. However, in my view, nothing turns on this and I believe that no prejudice has been suffered by the Accused. First, the sentencing provisions under s 65 of the RTA do not distinguish between offences under s 65(1)(*a*) and s 65(1)(*b*) of the RTA. Second, the 8th Charge was not one of the proceeded charges but a TIC charge. Third, I was satisfied that, notwithstanding the typographical error, the wording of the 8th Charge had adequately conveyed to the Accused (and his counsel), and the Accused understood, that he was being charged with the offence of driving "without due care and attention":

> 8th Charge
>
> are charged that you, on 30 August 2020 at about 3.27 am, along Clementi Avenue 6 towards the Ayer Rajah Expressway, Singapore, did drive a motor vehicle bearing registration number [xxxx35H] ("the Van") on a road, *without due care and attention, to wit, by failing to have proper control of the Van and causing the Van to mount a curb*, and you have thereby committed an offence under section 65(1)(*b)* punishable under section 65(5)(*a)* read with section 65(5)(*c)* of the Road Traffic Act (Cap 276, 2004 Rev Ed).
>
> [emphasis omitted; emphasis added in italics]

5 At the hearing, I convicted the Accused on all of the proceeded charges and passed the following sentences on him:

(a) For the Trafficking Charge, 13 years' imprisonment and 10 strokes of the cane.

(b) For the Rioting Charge, 1 year and 6 months' imprisonment and 3 strokes of the cane.

(c) For the Drink Driving Charge, a fine of $6,000 and in default of payment, 2 weeks' imprisonment which, if served, was to run consecutively with the prison sentences for the Trafficking and Rioting Charges. I further ordered that the Accused be disqualified from holding or obtaining a driving license for all classes of vehicles for a period of 34 months, pursuant to s 67(2) of the RTA. The period of disqualification was to commence only from the date of his release from prison.

(d) I ordered the prison sentences for the Trafficking and Rioting Charges to run consecutively.

6 The Accused has appealed against the sentence imposed. These are the full grounds of my decision.

The facts

7 The material facts can be summarised from the Statement of Facts filed on 27 January 2025 (and amended at the hearing) (the "SOF"), which the Accused had admitted to without qualification.

Facts relating to the Trafficking Charge

Background

8 The Accused began working for one Lim Jun Ren ("Jun Ren") sometime in August 2020.[1] Jun Ren was working for a Malaysian drug supplier known to him as "Ah Cute", to traffic drugs in Singapore. Jun Ren would make arrangements to collect drugs from Malaysian lorries in Singapore, repack them, and then deliver the drugs to what is known as a "POPStation".[2]

9 For context, POPStation is a locker system operated by Singapore Post ("SingPost"). At the material time in September 2020, POPStation operated a service which enabled users to rent lockers at various POPStation kiosks in Singapore (the service was known as "Rent-a-POP"):[3]

> (a) To rent a locker, renters would physically go to a POPStation kiosk and provide details which included (i) whether the renter was the intended recipient, (ii) the intended recipient's mobile number (if the intended recipient was not the renter), and (iii) the renter's own mobile number.[4] A six-digit Personal Identification Number ("PIN") would then be sent to the renter's mobile number, and the renter would need to enter this number and confirm the accuracy of the information submitted before making payment.[5]

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1 SOF at para 22.

2 SOF at para 16.

3 SOF at para 17.

4 SOF at paras 17–19.

5 SOF at para 19.

(b) After successful payment, the renter would receive a text message "containing the location of the POPStation kiosk, the drop-off PIN, and a locker number".[6] To deposit an item into the designated locker, the renter would need to enter the drop-off PIN and locker number at the POPStation kiosk, and then close the locker door after depositing the item to complete the process.[7]

(c) After making a deposit, the intended recipient would receive a text message with the relevant collection details, sent to the phone number provided by the renter. These details included the location of the POPStation kiosk, the locker number, and a collection PIN.[8] Recipients had to physically key in the locker number and collection PIN at the POPStation kiosk, in order to open the locker.[9]

10 On Jun Ren's instructions, the Accused would "place parcels containing drugs at POPStations, and Jun Ren would pay [the Accused] between $50 to $80 for each delivery that [the Accused] performed".[10] After making the deliveries, the Accused would forward the PIN required to open the POPStation lockers, and the location of the lockers, to Jun Ren. Jun Ren would forward these details to Ah Cute, who in turn passed them on to his Singapore customers.[11]

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6 SOF at para 20.

7 SOF at para 20.

8 SOF at para 21.

9 SOF at para 21.

10 SOF at para 22.

11 SOF at para 22.

Events leading up to the discovery of the offence

11 Jun Ren was arrested by officers from the Central Narcotics Bureau ("CNB") at about 2.02pm on 8 September 2020. Two mobile phones were seized from him.[12] One of the two mobile phones seized from Jun Ren (marked as "LJR-HP2") had a notification message dated 8 September 2020 from POPStation. The notification message stated that an item with reference number "P2600029825SP" (the "Item") was ready for collection from POPStation locker G2, located at Fajar Shopping Centre, Block 445 Fajar Road, Singapore (the "Locker").[13]

12 The Item was supposed to be collected by 11.59pm on 10 September 2020 but had yet to be collected on 11 September 2020. SingPost secured the Locker pending CNB's retrieval of the Item.[14]

13 SingPost records indicated that the person who had deposited the Item at the Locker had the contact number [xxxx7798].[15] Subsequent investigations revealed that (i) the Accused was the subscriber of this mobile number; and (ii) the Accused was acquainted with Jun Ren.[16]

14 CNB officers arrived at the Locker at around 11.09am on 14 September 2020, where it was then opened with SingPost's assistance.[17] The Locker

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12 SOF at para 3.

13 SOF at para 4.

14 SOF at paras 4–5.

15 SOF at para 5.

16 SOF at para 5.

17 SOF at para 6.

contained "a sealed packet bearing the words and logo of 'Ninja Van'".[18] This packet contained, *inter alia*, four packets containing crystalline substance, marked as "A1A1A", "A1A2A", "A1A3A", and "A1A4A" respectively (collectively, the "Exhibits"). The Exhibits formed the subject of the Trafficking Charge.

15 Later in the day at about 12.40pm on 14 September 2020, the Accused was arrested by CNB officers at his residence.[19] CNB officers seized one grey T-shirt, and "[n]umerous empty Ninja Van packaging".[20]

16 An analyst from the Health Sciences Authority analysed the Exhibits and issued four certificates under s 16 of the Misuse of Drugs Act (Cap 185, 2008 Rev Ed) ("MDA"). The following results are reproduced from the SOF:[21]

S/N	Lab No.	Exhibit analysed	Results
1.	ID-2032-01605-001	A1A1A	One packet containing not less than 248.9g of crystalline substance that was analysed and found to contain not less than **169.4g of methamphetamine**.
2.	ID-2032-01605-002	A1A2A	One packet containing not less than 248.8g of crystalline substance that was analysed and found to contain not less than **167.6g of methamphetamine**.

[18] SOF at para 6.

[19] SOF at para 8.

[20] SOF at para 9.

[21] SOF at para 12.

3.	ID-2032-01605-003	A1A3A	One packet containing not less than 247.3g of crystalline substance that was analysed and found to contain not less than **168.2g of methamphetamine**.
4.	ID-2032-01605-004	A1A4A	One packet containing not less than 225.9g of crystalline substance that was analysed and found to contain not less than **152.9g of methamphetamine**.

17 Collectively, the Exhibits contained not less than 970.9g of crystalline substance, which was found to contain not less than 658.1g of methamphetamine.[22]

The offence

18 The offence was described in the SOF in the following manner:[23]

> On 8 September 2020 at about 12.40pm, "Ah Cute" instructed Jun Ren to deposit the Exhibits in a POPStation locker. Following this, Jun Ren instructed [the Accused] to deliver the Exhibits to a POPStation. On the same day at about 1.18pm, while acting on Jun Ren's instructions, [the Accused] (who was a [*sic*] wearing a grey T-shirt at the material time) delivered a package bearing the words and logo of "Ninja Van" to [the Locker]. The said package contained the Exhibits.

19 The Accused admitted to (a) delivering to the Locker the Ninja Van package containing the Exhibits and (b) which he knew contained methamphetamine.[24] He did so pursuant to Jun Ren's instructions. The Accused provided Jun Ren's mobile number [xxxx5286] as the number belonging to the

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22 SOF at para 13.

23 SOF at para 23.

24 SOF at para 24.

package's intended recipient. Jun Ren received the collection details via a notification from POPStation, which he then forwarded to Ah Cute.[25]

20 It was not disputed that at all material times, the Accused was not authorised under the MDA or the regulations made thereunder to traffic in methamphetamine.[26]

Facts relating to the Rioting Charge

21 At the material time, the Accused was a member of a secret society known as "Pak Hai Tong" which belonged to the "Ji It" Group operating at [address redacted] in Singapore. The Accused was 34 years old at the time of commission of the offence.[27]

22 On 18 November 2018 at about 4.30am, the Accused was out drinking at Club V5, located at 21 Cuscaden Road, Ming Arcade, Singapore ("Club V5").[28] The Accused was with the following persons:[29]

(a) Tan Hong Sheng, a then 21-year-old male ("Hong Sheng");

(b) Dino Teo Wei Chiang, a then 24-year-old male ("Dino");

(c) Lew Wei, a then 25-year-old male;

(d) Edmund Kam Wei Liang, a then 20-year-old male ("Edmund");

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25 SOF at paras 24–25.

26 SOF at para 26.

27 SOF at para 29.

28 SOF at paras 31–32.

29 SOF at para 28.

(e) a male person known to the Accused as "Xiao Ma";

(f) a male person known to the Accused as "Jenson"; and

(g) a male person known to the Accused as "Wei Xuan".

I will refer to the Accused and the above-mentioned persons collectively as "the Group".

23 At the same time, a then 26-year-old male individual (the "Victim"), went to have drinks at Club V5 with two male friends, "Zhi Hao" and "Jason". They were seated at a different table from the Group.[30] Shortly after their arrival, Zhi Hao bumped into Hong Sheng while on the way to the toilet. Zhi Hao instinctively raised his hand to apologise, but Hong Sheng "raised his voice to ask why he knocked into him and challenged him to a fight".[31]

24 Zhi Hao told the Victim and Jason about this incident.[32] The Victim, a regular at Club V5, called for the manager on duty, one "Ah Hong", and inquired as to the Group's identities. Ah Hong "stated that they were his friends and gang members from 'Pak Hai Tong'".[33] The Victim then asked Ah Hong to assist them with resolving any remaining tension. Ah Hong brought the Victim and his friends over to the Group's table and asked the Group to forget about the incident on his account. The members of the Group agreed. The Accused informed Ah Hong that the Group was just drunk and would not confront the Victim and his friends.[34]

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30 SOF at para 32.

31 SOF at para 33.

32 SOF at para 34.

33 SOF at para 35.

34 SOF at para 35.

25 Around ten minutes later, the Victim and his friends went to the restroom. When returning from the restroom, Zhi Hao "saw Hong Sheng dancing with his friends". Hong Sheng looked back at him, and they "stared at each other for a period".[35] Then, Hong Sheng approached Zhi Hao aggressively. The Group followed Hong Sheng, prepared to support him if Hong Sheng ended up attacking Zhi Hao. A member of the Group challenged Zhi Hao to a fight.[36]

26 At about 5.33am, the Victim intervened between both groups, having returned from the restroom. He said that the earlier bumping incident had already been resolved, and he "asked why [the Group was] looking for trouble with 'Zhi Hao' again".[37]

27 I reproduce what happened next from the SOF:[38]

> Dino felt that [the Victim] was being rude and reacted by punching [the Victim] on the face. [The Group] joined in to assault [the Victim] by punching and kicking him multiple times on the face and body. At one point, [the Accused] had also tried to pick up a table to hit [the Victim] but he was stopped by one of the Club staff. While he was attempting to defend himself, [the Victim] was tripped by either [the Accused] or one of the persons in the Group and fell to the ground. [The Group] continued to assault [the Victim] by kicking his face and body even while he was on the ground. Dino and Hong Sheng then each picked up a glass "Martell" bottle from a nearby table and used it to hit [the Victim] on the head multiple times. [The Accused] and "Xiao Ma" also used beer buckets to hit him on his head and body multiple times. Staff employed by Club V5 attempted to stop the attack but were unable to do so.

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35 SOF at para 36.

36 SOF at para 36.

37 SOF at para 37.

38 SOF at para 38.

28 The assault lasted about three minutes and only ended when staff from Club V5 intervened. Upon realising that the police had been called, the Group left the scene.[39]

29 Jason and Zhi Hao had left Club V5 earlier, while the assault was ongoing. They waited for the Victim at the ground floor of Ming Arcade.[40]

30 The Victim was conveyed to Changi General Hospital's ("CGH") Accident & Emergency Department by his friends. A medical report detailing the Victim's injuries, dated 12 December 2018, was prepared by one Dr Looi Chong Heng Peter of CGH.[41] The material part of the report states (with injuries in italics):[42]

> On examination, [the Victim] was well, alert and comfortable. Vital parameters stable. *Multiple bruising and hematoma noted over the scalp and forehead. A 1cm laceration seen at the dorsum right hand.* No neurological deficit found.
>
> CT scan of the head showed no fractures or intracranial bleeding.
>
> He was discharged with some oral analgesia and medical leave issued from the 18/11/2018 till the 20/11/2018 after the laceration was toilet and sutured.
>
> *Diagnosis was that of a laceration hand and contusion head.*
>
> [emphasis added]

31 The Accused was arrested on 4 May 2020 and released on station bail the same day.[43]

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39 SOF at para 39.

40 SOF at para 40.

41 SOF at paras 41–43.

42 SOF at Annex B.

43 SOF at para 45.

Facts relating to the Drink Driving Charge

32 At about 12.30am on 30 August 2020, the Accused began to drive home from a coffeeshop located at Lorong 3 Geylang, Singapore. Prior to this, he had "consumed about five bottles of Heineken beer" from 8.30pm to 11.00pm on 29 August 2020.[44] He drove a van bearing registration number [xxxx35H] which belonged to Ninja Van Pte Ltd (the "Van").[45]

33 Sometime before 3.27am, the Accused drove the Van along the Pan Island Expressway ("PIE") and "thereafter exited the PIE and drove along Clementi Avenue 6".[46] While driving "along Clementi Avenue 6 towards the Ayer Rajah Expressway, [the Accused] failed to have proper control of the Van, resulting in the Van veering to the right and to the left of the three-lane road, and mounting a curb on the left side of the road".[47] The Accused continued driving the Van even after mounting the curb, but shortly thereafter, stopped at a bus stop.[48] While there were various scratches and dents on the Van, no damage was caused to public property.[49] At the material time, "the weather was clear, the road surface was dry, and the traffic volume was light"; the Accused also confirmed that the Van did not have any mechanical issues.[50]

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44 SOF at paras 47–48.

45 SOF at para 49.

46 SOF at para 50.

47 SOF at para 50.

48 SOF at para 50.

49 SOF at para 54.

50 SOF at para 51.

34 A "999" call was made to the Police at around 3.27am, with the caller reporting that "a red van [xxxx35H] is drink driving" [capitalisation removed].[51] Traffic Police officers arrived at the scene around 3.44am. When questioned, the Accused told the officers that he had not been driving the Van. Instead, he had a "valet" who had abandoned him. The officers "observed that [the Accused] had bloodshot eyes, a flushed face and an unsteady gait, and smelled of alcohol".[52] An on-scene breathalyser test was conducted – on the fifth attempt, it presented a "Fail" result. The Accused was thereafter brought back to Traffic Police Headquarters for a breath analysing device ("BAD") test.[53]

35 The BAD test was conducted by the Traffic Police at around 5.41am on 30 August 2020. It showed that the Accused had 65 microgrammes of alcohol in 100 millilitres of breath.[54] Under s 72 of the RTA, the prescribed limit is 35 microgrammes of alcohol in 100 millilitres of breath.[55]

36 The Accused was arrested on 30 August 2020 and released on station bail the same day.[56]

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51 SOF at para 46.

52 SOF at para 52.

53 SOF at para 52.

54 SOF at Annex C.

55 SOF at para 53.

56 SOF at para 56.

Sentence – My Analysis and Decision

Trafficking Charge

37 My analysis on sentencing proceeded as follows, as adapted from *Vasentha d/o Joseph v Public Prosecutor* [2015] 5 SLR 122 ("*Vasentha*") at [44]:

> (a) The first step is to identify the indicative starting sentence for each proceeded charge, having regard to the quantity of the drugs trafficked and any established sentencing bands.
>
> (b) The second step is to consider the necessary adjustments upwards or downwards based on (i) the Accused's culpability; and (ii) the presence of relevant aggravating or mitigating factors.
>
> (c) The third step is to ascertain the discount, if any, to be applied in light of the Accused's guilty plea.
>
> (d) The fourth step is to take into account the time that the Accused has spent in remand prior to the conviction, either by backdating the sentence or discounting the intended sentence (insofar as it is appropriate to do so).

38 It cannot be disputed that for serious offences such as drug trafficking, the dominant sentencing consideration is deterrence: *Public Prosecutor v Adith s/o Sarvotham* [2014] 3 SLR 649 at [14]. In the present case, the Prosecution sought a sentence of 13 years' imprisonment and 10 strokes of the cane. The Accused submitted that a sentence of 11 years and 9 months' imprisonment was

appropriate,[57] and left it to the Court to decide on the number of strokes of the cane.[58]

The indicative starting sentence

39 The Accused had trafficked 166.99g of methamphetamine. From the decisions in *Loo Pei Xiang Alan v Public Prosecutor* [2015] 5 SLR 500 at [17] and *Adeeb Ahmed Khan s/o Iqbal Ahmed Khan v Public Prosecutor* [2022] 2 SLR 1197 ("*Adeeb Ahmed Khan*") at [38]–[39], it is clear that the indicative starting sentence for first-time offenders who traffic in 166.99g of methamphetamine should be at the very top end of the sentencing band for trafficking between 150.3g and 166.99g of methamphetamine. The sentencing band provides for 13–15 years' imprisonment and 10–11 strokes of the cane. I agreed with the Prosecution that the indicative starting sentence in this case should be 15 years' imprisonment and 11 strokes of the cane, given that the quantity of methamphetamine trafficked was at the highest end of the range.

Appropriate adjustment

40 I next considered how the sentence should be adjusted to take into account the Accused's culpability, and any relevant aggravating or mitigating factors excluding the Accused's plea of guilt: *Iskandar bin Jinan v Public Prosecutor* [2024] 2 SLR 673 ("*Iskandar bin Jinan*") at [121(a)(i)(A)(2)].

41 The Prosecution acknowledged that the Accused's culpability was "relatively low", as he "did not exercise any executive functions and had acted

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57 Defendant's Mitigation Plea filed 27 January 2025 ("Mitigation Plea") at para 6(1).

58 Mitigation Plea at para 5.

under the directions of Jun Ren".[59] This was however, tempered by the fact that the Accused committed the offence while on station bail – which was an aggravating factor: *Public Prosecutor v Loqmanul Hakim bin Buang* [2007] 4 SLR(R) 753 at [61].[60] Considering both factors, the Prosecution sought a downward adjustment of 0.5 years and 1 stroke of the cane, resulting in an adjusted sentence of 14.5 years' imprisonment and 10 strokes of the cane (before applying the plead guilty discount).[61]

42 The Accused submitted that the indicative starting sentence should be adjusted downwards to 13 years' imprisonment. He asked the court to take into account the following factors which indicated his lower culpability and / or were mitigating:

(a) he only "performed a limited function under direction";[62]

(b) his early confession and cooperation with the authorities;[63]

(c) that the Accused was a first-time offender;[64]

(d) the Accused did not attempt to evade detection when committing the offence;[65]

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59 Prosecution's Submissions on Sentence ("PP's Submissions") filed 27 January 2025 at para 8.

60 PP's Submissions at para 10.

61 PP's Submissions at para 11.

62 Mitigation Plea at para 32.

63 Mitigation Plea at paras 31 and 39.

64 Mitigation Plea at para 30.

65 Mitigation Plea at para 34.

(e) the Accused did not obtain any personal gain because Jun Ren was arrested before he could pay the Accused;[66] and

(f) the drugs were seized by the authorities and so did not circulate further.[67]

43 I accepted that the Accused played a limited role in the offence and only operated under the instructions of Jun Ren. This indicated lower culpability on his part. On the other hand, I also accepted the Prosecution's submission that the commission of the offence while on bail was an aggravating factor. The Accused did not offer any response to this factor.

44 As to the other factors cited by the Accused at [42] above, I agreed with the Prosecution that little weight should be given to the Accused's confession and cooperation with the authorities because the evidence against him was overwhelming – in particular, the Accused's mobile number was linked to the POPStation locker in which the drugs were found.[68] There was no suggestion that the Accused had materially assisted the police with their law enforcement efforts: see generally, *Vasentha* at [73] ("substantial mitigating weight may be given in cases where the offender extends his co-operation *beyond* his own confession" [emphasis added]). As the Prosecution pointed out, Jun Ren had been arrested *before* the Accused.[69]

45 I also did not place much weight on the Accused's status as a first-time offender for two reasons. First, the sentencing framework set out in *Adeeb*

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66 Mitigation Plea at paras 35–36.

67 Mitigation Plea at para 37.

68 Minute Sheet for Hearing on 3 February 2025 ("Minute Sheet") at p 4.

69 Minute Sheet at p 4.

Ahmed Khan is already meant to apply to first-time offenders (*ie*, it already takes account of an accused's status as a first-time offender). Repeat offenders, by contrast, face an uplift of 3–6 years and 2–3 strokes: *Adeeb Ahmed Khan* at [38]–[39]. It would, in my view, amount to double counting to give further mitigating weight to the Accused's status as a first-time offender, in addition to what is already built into the sentencing framework: see generally, *Public Prosecutor v Raveen Balakrishnan* [2018] 5 SLR 799 ("*Raveen Balakrishnan*") at [87]. Second, the Accused was only a first-time offender because this was the first time he had been caught. According to the SOF, the Accused had started working for Jun Ren in August 2020.[70] Thus, the Accused's drug deposit on 8 September 2020 would not have been the first time the Accused had effected a delivery of drugs. While an offender's prior criminal activities (for which he was not charged) cannot be used to *aggravate* the sentence, such prior conduct can be used to "negate the mitigating weight of the offender's assertion that it was his first or only offence": *Vasentha* at [59].

46 The fact that the Accused did not seek to evade detection was, in my judgment, not relevant. While attempts to evade detection may be *aggravating* (*Adri Anton Kalangie v Public Prosecutor* [2018] 2 SLR 557 ("*Adri Anton Kalangie*") at [82]), it is well established that the absence of an aggravating factor is not itself mitigating: *Edwin s/o Suse Nathen v Public Prosecutor* [2013] 4 SLR 1139 at [24]; Kow Keng Siong, *Sentencing Principles in Singapore* (Academy Publishing, 2nd Ed, 2019), at para 15.021.

47 The Accused's non-receipt of payment was also immaterial. It could not be mitigating that the Accused's criminal conduct was prematurely (and fortuitously) thwarted: *Lim Ying Ying Luciana v Public Prosecutor and another*

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70 SOF at para 22.

appeal [2016] 4 SLR 1220 at [44]; *Than Stenly Granida Purwanto v Public Prosecutor* [2003] 3 SLR(R) 576 at [24]. While the mere *motivation* to obtain financial gain can be aggravating (*Vasentha* at [51]), I did not consider the Accused's financial motivations to be an additional aggravating factor given the observations in *Adri Anton Kalangie* at [82], where the court observed that because trafficking is invariably undertaken for financial gain, a financial motivation is not *generally* aggravating, absent special circumstances (and of which, there were none in this case).

48 For similar reasons, the fact that the drugs were seized by the CNB before they could be further circulated into the market could not be mitigating. It is frequently the case that in drug trafficking cases, the drugs would be seized before they are circulated (hence the very presence of s 5(2) MDA). The Accused could not possibly be given mitigating credit for harm that was averted due to the fortuitous and timely intervention of the authorities.

49 Finally, I noted that the total amount of methamphetamine found in the packet which the Accused had deposited into the POPStation locker on 8 September 2020 was substantial and sufficient to attract capital punishment. For the avoidance of doubt, I merely noted this as an indicium of the overall gravity of the matter before me. I did not consider this to be an additional aggravating factor, in light of the Court of Appeal's observations that it would not be appropriate to look behind the Prosecution's decision to prefer a charge for a lesser quantity: *Suventher Shanmugam v Public Prosecutor* [2017] 2 SLR 115 at [33]–[37].

50 Considering the Accused's culpability, and all the relevant aggravating and mitigating factors in the round (excluding his guilty plea), I agreed with the Prosecution that a net downward adjustment to the starting sentence of 0.5 years

and 1 stroke of the cane was appropriate. This brought the sentence down to 14 years and 6 months' imprisonment and 10 strokes of the cane.

PG Reduction

51 I next considered the appropriate reduction, if any, to be given to factor in the Accused's plea of guilt. As recently explained by the Court of Appeal in *Iskandar bin Jinan* (at [106], [110] and [121(b)]), the maximum reduction to be applied to the term of imprisonment in drug trafficking cases is 10% at Stage 1, and 5% at all other stages. The Prosecution submitted that a 10% discount should be given to the Accused. The Accused made the same submission.[71]

52 I agreed that a 10% discount was appropriate in this case. The Accused had decided to plead guilty one day after he was given a revised offer by the Prosecution.[72]

53 Applying a 10% reduction to the calibrated prison sentence (at [50] above) gave rise to a final sentence of 13.05 years. As suggested by the Prosecution in its sentencing submissions,[73] I agreed to round this down to 13 years. The sentence imposed for the Trafficking Charge was therefore 13 years' imprisonment and 10 strokes of the cane.

Rioting Charge

54 The Prosecution sought an indicative starting sentence of 26 months' imprisonment and at least 3 strokes of the cane. The Prosecution relied on observations made by the court in *Phua Song Hua v Public Prosecutor* [2004]

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71 Mitigation Plea at para 41.

72 Mitigation Plea at para 41.

73 PP's Submissions at para 12.

SGHC 33 ("*Phua Song Hua*") at [42], that the courts had consistently imposed sentences of between 18 to 36 months' imprisonment, as well as caning ranging from 3 to 12 strokes, for rioting offences which were "non-secret society related".[74] The Prosecution further pointed out that since *Phua Song Hua*, the Penal Code has been amended to increase the maximum imprisonment term from 5 to 7 years, thereby suggesting that courts could be expected to take a harsher attitude towards rioting offenders.[75] I was inclined to agree with these observations.

55 As to the appropriate sentence, both the Prosecution and the Accused made submissions based on the principle of parity in sentencing, by comparing the Accused's conduct with other offenders from the Group who had already been sentenced.[76] The sentences received by three other offenders from the Group were highlighted to me by the Prosecution:

(a) Hong Sheng had used a glass "Martell" bottle to "hit [the Victim] on the head multiple times".[77] He was charged with a more serious offence of rioting while armed with a deadly weapon under s 148 of the Penal Code (Cap 224, 2008 Rev Ed) (the "Penal Code"), and was sentenced to 32 months' imprisonment after pleading guilty.[78]

(b) Edmund had punched and kicked the Victim, but did not otherwise use any object. Edmund was sentenced to 17 months' imprisonment for the offence of rioting under s 147 of the Penal Code.

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74 PP's Submissions at para 14.

75 PP's Submissions at para 15.

76 PP's Submissions at para 18; Mitigation Plea at paras 50–59.

77 SOF at para 38.

78 PP's Submissions at para 18(a).

The District Court took into account his prior "similar antecedent for being a member of an unlawful assembly as well as his guilty plea": *Public Prosecutor v Edmund Kam Wei Liang* [2022] SGDC 24 at [27].[79]

(c) Lew Wei was charged with being a member of an unlawful assembly, an offence under s 143 of the Penal Code which is less serious than the Accused's charge. He pleaded guilty and received a sentence of 4 months' imprisonment.[80]

56 At the outset, I observed that the parity principle had a more limited role to play in respect of Hong Sheng and Lew Wei as they were charged with *different* offences: *Phua Song Hua* at [38]. Nonetheless, I did not think that the court was precluded from considering the Accused's role and culpability relative to these other offenders, even if they had been subject to different charges: *Phua Song Hua* at [40]; *Muhamad Azmi bin Kamil v Public Prosecutor* [2022] 2 SLR 1432 at [25]. Ultimately, what was more important was for the sentencing court to achieve a result that was "broadly consistent and fair" based on the facts of the case at hand: *Chong Han Rui v Public Prosecutor* [2016] SGHC 25 at [52].

57 In my view, Edmund was the most appropriate starting point of comparison because he faced a similar charge under s 147 of the Penal Code. I disagreed with the Accused's submission that his culpability was comparable to that of Edmund. The Accused had used a beer bucket to strike the Victim – this in itself was more egregious conduct than Edmund's, who did not use any objects. The Accused argued that this should be mitigated by the fact that he

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79 PP's Submissions at para 18(b).

80 PP's Submissions at para 18(c).

had "tried to de-escalate the incident or prevent things from escalating", something which Edmund had not done.[81] While that may have been true of the *initial* confrontation between Zhi Hao and Hong Sheng (see [24] above), there was no evidence that the Accused tried to de-escalate the situation when the scuffle broke out subsequently. In fact, the SOF stated that the Accused tried to use a table as a weapon to hit the victim but was stopped by one of the staff at the club – [82] this was not conduct consistent with someone trying to de-escalate or diffuse the situation.

58 For these reasons, I found that the Accused was *more* culpable than Edmund. His sentence should thus be higher than Edmund's sentence of 17 months' imprisonment. I was also of the view that the Accused was *less* culpable than Hong Sheng, who had used a more dangerous object (a glass "Martell" bottle) to strike the Victim. However, as I mentioned above at [56], I did not use Hong Sheng as a strict point of reference because he faced a more serious charge under s 148 of the Penal Code.

59 Lastly, I also considered the fact that the Accused had been previously convicted of the more serious offence of rioting while armed with a deadly weapon. For this offence, the Accused had been ordered to undergo reformative training – it therefore appeared that the reformative training did not have its desired effect. Additionally, I noted for context that the Group were all members of or had associations with secret societies,[83] but I did not consider this to be an aggravating factor, as I had applied the sentencing framework for offences that were not secret-society-related (see [54] above).

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81 Mitigation Plea at paras 55–58.

82 SOF at para 38.

83 SOF at para 29; PP's Submissions at para 16(d).

60 Considering all the circumstances of the case pertaining to the Rioting Charge, I accepted the Prosecution's submission that the starting sentence should be 26 months' imprisonment and 3 strokes of the cane.[84]

61 I next considered the appropriate reduction to be given on account of the Accused's plea of guilt. The Prosecution submitted that a 30% reduction should be applied.[85] I saw no reason to disagree with this, and accordingly applied the 30% reduction to the starting prison sentence: Sentencing Advisory Panel, *Guidelines on Reduction in Sentences for Guilty Pleas* (1 October 2023) at p 9. This resulted in a final sentence of 18 months' imprisonment (or 1 year and 6 months) and 3 strokes of the cane. The Accused had asked for 17 months' imprisonment and left the question of caning to the court.[86] Given my observations on the Accused's culpability at paragraphs [57]–[58] above, I did not see any reason to further reduce the sentence.

Drink Driving Charge

62 No damage to property was caused by the Accused's drink driving, nor was any person injured.[87]

63 The sentencing framework for first-time drink driving offences which do not cause harm to person or property is set out in *Rafael Voltaire Alzate v Public Prosecutor* [2022] 3 SLR 993 ("*Rafael Voltaire Alzate*") at [31]–[32], which was cited by both parties:[88]

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84 PP's Submissions at para 16.

85 PP's Submissions at para 17.

86 Mitigation Plea at paras 5 and 6(2).

87 SOF at para 54.

88 PP's Submissions at para 21; Mitigation Plea at paras 63–64.

Level of alcohol (µg per 100ml of breath)	Range of fines	Range of disqualification
36–54	$2000–$4000	24–30 months
55–69	$4000–$6000	30–36 months
70–89	$6000–$8000	36–48 months
≥ 90	$8000–$10000	48–60 months (or longer)

64 The Accused was found with 65 microgrammes per 100 millilitres of breath. This placed him within the second band of the sentencing framework in *Rafael Voltaire Alzate*, giving rise to a fine in the range of $4,000–$6,000 and a disqualification period of between 30–36 months.

65 The parties' positions on sentence were not markedly different. The Accused had asked for a fine of $5,000 and left the period of disqualification to the court.[89] The Prosecution sought a fine of $6,000 (in default 21 days' imprisonment) and disqualification from holding or obtaining a licence for all classes of vehicles for a period of 36 months, with the disqualification to take effect from the date the Accused is released from prison.[90] In this regard, I noted that pursuant to s 67(2) of the RTA, when a person is convicted of an offence under s 67 of the RTA, the court *is to*, unless there are special reasons, "order that the person be disqualified from holding or obtaining a driving licence" for a period of not less than 2 years (for first-time offenders).

66 I was of the view that, taking into account the TIC charge for driving without due care and attention, a fine of $6,000 with a default sentence of

89 Mitigation Plea at paras 5 and 62.

90 Minute Sheet at p 3; PP's Submissions at para 23.

2 weeks' imprisonment was appropriate. As for the disqualification order, I was of the view that a period of 34 months was appropriate. This was just above the middle of the 30–36-month range for the applicable sentencing band (see above at [64]).

67 As to when the period of disqualification should commence, the general rule is that if the offender is also sentenced to a term of imprisonment which arises out of a separate and unconnected offence, the disqualification order should commence from the date of conviction: *Muhammad Ramzaan s/o Akhbar v Public Prosecutor* [2023] SGHC 9 ("*Ramzaan*") at [16]; citing *Muhammad Saiful bin Ismail v Public Prosecutor* [2014] 2 SLR 1028 ("*Saiful*") at [46].

68 I agreed with the Prosecution's submissions that in this case, the general rule should be displaced and that the disqualification period should only commence after the Accused's release from prison and not from the date of his conviction.[91] This was because allowing the disqualification order to commence from the date of conviction would, in my judgment, render the disqualification order "completely nugatory" [emphasis removed], considering the lengthy imprisonment term that the Accused faced (*Ramzaan* at [19]). Further, there is a need to disincentivise accused persons who are already facing the prospect of imprisonment from committing further driving offences which may not otherwise attract imprisonment,[92] thus enabling their disqualification orders to be negated (*Ramzaan* at [21]; *Saiful* at [49]). In this case, the Accused committed the drink driving offence *after* and while he was out on bail for the

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91 PP's Submissions at para 27.

92 PP's Submissions at para 25.

Rioting Charge.[93] He was thus already facing the prospect of imprisonment of at least 17 months for the rioting offence (even on the Accused's own case – see [61] above). In those circumstances, ordering the period of disqualification to commence from the date of the Accused's conviction would also have undercut the penal effect of a substantial portion of the disqualification period covered by the disqualification order. In my view, this afforded a further reason why it was inappropriate in this case for the period of disqualification to commence from the date of the Accused's conviction.

Concluding remarks on sentence

69 Both parties accepted that the prison sentences for the Trafficking and Rioting Charges should run consecutively as they were unrelated offences and did not form part of a single transaction: *Raveen Balakrishnan* at [54].[94]

70 Before passing sentence, I took a step back to give the matter a "broad-brush 'last look'" (*Iskandar bin Jinan* at [121(c)]. Focusing on the proportionality of the overall sentence for the three proceeded charges, the prison sentence on the Trafficking Charge running consecutively with the prison sentence on the Rioting Charge would result in an aggregate prison sentence of 14 years and 6 months. In my judgment, such an aggregate prison sentence appropriately reflected the level of culpability of the Accused in this case, and was in line with relevant precedents. Nor was it unjustly harsh or crushing on the Accused and not in keeping with his past conduct and future prospects. I also did not consider the sentence imposed in relation to the Drink Driving Charge to be in any way disproportionate or crushing on the Accused.

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93 SOF at paras 45 and 47; PP's Submissions at para 27.

94 PP's Submissions at para 28; Mitigation Plea at para 68.

71 Finally, the Accused was arrested on 14 September 2020 for the drug trafficking offence and the Prosecution did not object to the prison sentences being backdated to the date of the Accused's arrest.[95]

Summary

72 After considering the proceeded charges, the TIC charges, the SOF, and the submissions of the Prosecution and the Accused, I imposed the following sentences on the Accused:

(a) **Trafficking Charge**: 13 years' imprisonment and 10 strokes of the cane.

(b) **Rioting Charge**: 1 year and 6 months' imprisonment and 3 strokes of the cane.

(c) **Drink Driving Charge**: a fine of $6,000 and in default of payment, 2 weeks' imprisonment. In the event that the default prison sentence was served, that sentence was to run consecutively with the prison sentences for the Trafficking Charge and Rioting Charge: s 319(1)(*b*)(v) of the Criminal Procedure Code 2010 (2020 Rev Ed). Further, pursuant to s 67(2) of the RTA, I ordered that the Accused be disqualified from holding or obtaining a driving licence for all classes of vehicles for a period of 34 months. The period of disqualification was to commence only from the date of his release from prison.

(d) The prison sentences for the Trafficking Charge and Rioting Charge were to run consecutively.

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95 PP's Submissions at para 29.

73 The final aggregate sentence imposed on the Accused was:

(a) 14 years and 6 months' imprisonment;

(b) 13 strokes of the cane;

(c) $6,000 fine and in default of payment, 2 weeks' imprisonment. The default prison sentence, if served, was to run consecutively with the prison sentences on the Trafficking Charge and Rioting Charge; and

(d) the Accused was disqualified from holding or obtaining a driving licence for all classes of vehicles for a period of 34 months, with the disqualification period to commence on the date the Accused is released from prison.

74 The prison sentence was to be backdated to 14 September 2020, when the Accused was arrested for the drug trafficking offence.

S Mohan
Judge of the High Court

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Kang Kok Boon Favian (Jiang Guowen) (Centurion LLC) and
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