

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

[2026] SGHC 64

Criminal Motion No 71 of 2025

Between

Santos-Tumalip Maria
Monalyn Bagaporo

... Applicant

And

Public Prosecutor

... Respondent

EX TEMPORE JUDGMENT

[Criminal Procedure and Sentencing — Appeal — Out of time]
[Criminal Procedure and Sentencing — Criminal motions — Extension of
time to file notice of appeal]

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Santos-Tumalip Maria Monalyn Bagaporo

v

Public Prosecutor

[2026] SGHC 64

General Division of the High Court — Criminal Motion No 71 of 2025
Christopher Tan J
25 March 2026

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Christopher Tan J:

1 The applicant in this case (“Applicant”) filed CM 71/2025 (“CM 71”), seeking permission to file a notice of appeal against the *sentence* that was imposed on her, despite the filing deadline having passed. I **allow** her application and now set out my reasons.

Background

2 The key milestones in this case are summarised below:

- (a) The Applicant had pleaded guilty to four charges for property-related offences under the Penal Code 1871. On **13 November 2025**, she was sentenced to a global imprisonment term of 21 months and 8 weeks. Being already in remand, the Applicant started serving her

sentence immediately. Thereafter, the lawyer who represented her at the sentencing hearing discharged herself.

(b) The next day, on **14 November 2025**, the Applicant sought to reach out to Pro Bono SG through her sister.

(c) The deadline for filing an appeal, *ie*, **27 November 2025**, passed without the Applicant filing an appeal.

(d) Four days after the deadline’s expiry, on **1 December 2025**, Pro Bono SG held a Criminal Legal Clinic with the Applicant, following which the Applicant started preparing for CM 71.

(e) On **5 December 2025**, her papers for CM 71 (including her supporting affidavit) were ready and she presented the same to the Singapore Prison Service (“SPS”) staff for filing. As SPS required some time to procure a Commissioner for Oaths, the affidavit was affirmed only on **11 December 2025**.

(f) The next day, on **12 December 2025**, the Applicant filed CM 71 with the assistance of SPS staff.

3 On 7 February 2026, Pro Bono SG came on board to represent the Applicant in CM 71 and will likely represent her for the appeal proper should CM 71 be allowed.

The law

4 Section 377(2) of the Criminal Procedure Code 2010 (“CPC”) provides that the notice of appeal must be filed within 14 days after the date of the sentence. Since the Applicant failed to comply with this deadline, which in this

case would have fallen on 27 November 2025 (see [2(c)] above), she was barred from appealing against her sentence. Nonetheless, s 380(1) of the CPC empowers the appellate court to permit a person who is debarred from appealing (on grounds of non-compliance with any provision of the CPC) to still appeal if the court “considers it to be in the interests of justice” and subject to such terms and conditions as the court thinks fit.

5 In *Adeeb Ahmed Khan s/o Iqbal Ahmed Khan v Public Prosecutor* [2022] 2 SLR 1197 (“*Adeeb Ahmed Khan*”), the Court of Appeal referred to the case of *Lim Hong Kheng v Public Prosecutor* [2006] 3 SLR(R) 358 (“*Lim Hong Kheng*”), where Sundaresh Menon JC (as he then was) explained (at [27]) that whether an application to file an appeal out of time would be allowed depends on the following factors:

- (a) length of the delay in pursuing the appeal;
- (b) explanation for the delay; and
- (c) prospects of the appeal.

The Court of Appeal in *Adeeb Ahmed Khan* noted that *Lim Hong Kheng* was dealt with under the “predecessor” of s 380(1) of the CPC but nevertheless endorsed its continued application: at [19]-[20].

6 The Court of Appeal also qualified (at [21]) that where the failure to appeal within the prescribed timelines had stemmed from the applicant’s acceptance of the merits of the decision (which he now seeks to appeal), such that the decision to appeal may be regarded as an afterthought, the higher threshold of “substantial injustice” in *Public Prosecutor v Pang Chie Wei* [2022] 1 SLR 452 (“*Pang Chie Wei*”), applies. Under the latter threshold, the applicant needs to furnish “new material” striking at the soundness of the

conviction in a fundamental way or showing that the sentence imposed was based on a fundamental misapprehension of the law: *Adeeb Ahmed Khan* at [22].

The applicable threshold

7 I first consider whether the higher threshold of “substantial injustice”, as set out in *Pang Chie Wei*, should apply in this case.

8 Whether an applicant’s omission to file an appeal within the statutorily prescribed timelines can be attributed to him having accepted the merits of the decision will depend on a holistic assessment of the facts. In that respect, the length of the delay will be relevant: *Adeeb Ahmed Khan* at [26(b)]. In the present case, I am of the view that the higher *Pang Chie Wei* threshold has *not* been triggered:

(a) Preliminarily, I note that the sentence imposed on the Applicant was much higher than what her lawyer had proposed – this should be contrasted with *Adeeb Ahmed Khan*, where the court’s conclusion that the applicant had come to accept the sentence imposed by the lower court was buttressed in part by the fact that the sentence imposed was very close to what the defence had asked for: see [28(c)].

(b) As set out at [2(b)] above, the Applicant had approached Pro Bono SG (through her sister) very promptly after the sentence was pronounced. This was consistent with Applicant’s position that she did not accept her sentence.

(c) Finally, the delay in this case does not strike me as being so long as to lead me to conclude that the Applicant had come to accept the sentence. The Pro Bono SG legal clinic with the Applicant was eventually held on 1 December 2025, *ie*, just two working days after

expiry of the appeal deadline. The Applicant's papers for CM 71 were ready for affirmation very shortly after that, on 5 December 2025, *ie*, just *six working days* after expiry of the deadline (see [2(d)] and [2(e)] above). Her appeal could not be filed then and there as she was in custody and SPS needed some time to bring the Commissioner for Oaths onsite.

I am thus satisfied that the present application for an extension of time to appeal against the Applicant's sentence should *not* be assessed under the approach in *Pang Chie Wei*, as the evidence does not sufficiently demonstrate that the Appellant had come to accept the merits of the judge's sentencing decision.

9 Instead, CM 71 should be assessed in accordance with the approach in *Lim Hong Kheng* (set out at [5] above). It is to that which I now turn.

Length of delay in pursuing the appeal

10 I begin with the duration for the Applicant's delay in filing the appeal. As alluded to above, this did not strike me as particularly long. To recapitulate, the Applicant had reached out to Pro Bono SG for legal representation (through her sister) on the very day after she was sentenced. Unfortunately, Pro Bono SG's legal clinic with the Applicant was held only *after* the deadline for appeal had already expired by three working days (see [2(d)] above). Nevertheless, the Applicant promptly completed the preparation of her papers for CM 71 within three working days of the legal clinic and passed the same to SPS staff for filing on 5 December 2025 (see [2(e)] above).

11 Although CM 71 was ultimately filed only on 12 December 2025, the Prosecution accepts that the delay between 5 and 12 December was attributable to circumstances beyond the Applicant's control – SPS needed some time to

procure a Commissioner for Oaths (see [2(e)] above) – and should consequently be disregarded. The effective period of delay here is thus only *six working days*, *ie*, from 27 November 2025 to 5 December 2025.

12 Juxtaposed against the circumstances of this particular case, which I touch on further below, I do not think that the delay is significant.

Explanation for the delay

13 In her affidavit filed in support of CM 71, the Applicant provided two main reasons for her failure to file her appeal within the statutory deadline:

- (a) She did not know about the 14-day deadline for appealing; and
- (b) She was under the misapprehension that she cannot proceed with the appeal without “confirmed representation” in place.

14 With regard to the first reason, the Applicant claims that SPS staff informed her that she only has seven days to appeal (although SPS has filed an affidavit by its Superintendent disputing this). Having looked at the evidence, I do not find this reason to be a credible one. The Applicant must be taken to have known about the 14-day deadline as she had signed a declaration acknowledging that she had to inform SPS of any decision to appeal within 14 days of sentencing. Indeed, she also concedes that the lawyer who represented her at the sentencing hearing below informed her that she had 14 days to appeal.

15 As regards the second reason, I found this to be a little more believable. The Applicant had reached out to Pro Bono SG (through her sister) on the day after she was sentenced and started preparing her papers for CM 71 promptly after meeting with lawyers from Pro Bono SG on 1 December 2025. This course of conduct was consistent with her explanation that she thought she needed

“confirmed representation” in place to appeal. Clearly, the meeting with the lawyers from Pro Bono SG had a strong bearing on her decision to appeal her sentence. Still, even if this second reason is believed, whether it suffices as a *sufficient* explanation for the delay is a separate matter.

16 In effect, the Applicant is claiming that she thought the 14-day deadline could be held in abeyance pending defence counsel coming on board. Viewed in and of itself, this comes across as an all too convenient excuse that is unlikely to hold water in the vast bulk of cases. Self-represented inmates who wait an inordinately long duration before engaging counsel to file an appeal out of time, thinking that they can cite their purported misapprehension that inmates without legal representation are somehow immune from statutory deadlines, cannot seriously expect any sympathy. However, it is critical to note that this was not the case here. The Applicant took steps to reach out to Pro Bono SG very shortly after her sentence and to file the appeal promptly after her very first meeting with Pro Bono SG’s lawyers. In short, she did not rely on her misapprehension (about the appeal deadline hinging on lawyers coming on board) as an excuse to dither in securing legal representation.

17 In *Adeeb Ahmed Khan*, the Court of Appeal explained that the length of the delay will impact on the Applicant’s burden to explain the delay: “the longer the delay, the greater the burden and this is reflected in the degree of scrutiny applied by the court to the explanation put forward for the delay” (at [20]). Given the relatively short delay here, I have refrained from applying an overly exacting yardstick in appraising the Applicant’s reasons for the delay and conclude that, based on the facts of *this specific case*, they can be accepted. I would nevertheless be at pains to reiterate that just because the period of delay is short, this does not mean that the reasons for delay will only be accorded perfunctory attention. As the court in *Lim Hong Kheng* explained (at [37(e)]):

It would seldom, if ever, be appropriate to ignore any of these factors [ie, the length of the delay, the sufficiency of any explanation given in respect of the delay and the prospects in the appeal] because that would undermine the principles that a party in breach of these rules has no automatic entitlement to an extension and that the rules and statutes are expected to be adhered to.

As such, even in instances of *short* delays, applicants who breach the appeal deadline thinking that they can subsequently obtain an extension without having on hand any meaningful explanation for the delay do so at their own risk.

Prospects of the appeal

18 The Applicant's new lawyers (from Pro Bono SG) have prepared a detailed preview of the submissions which they will be advancing to show why the sentence below was manifestly excessive. I do not propose to delve into them too deeply – given that the merits of the appeal will be dealt with in due course – save to say that I do not believe that this is an instance where the prospects of an appeal against sentence are so poor that the appeal should be shut out at this incipient stage (by way of dismissing CM 71). In arriving at this conclusion, I have borne in mind the guidance by the Court of Appeal in *Adeeb Ahmed Khan* (at [26(a)]), to the effect that the longer the duration by which the deadline for appealing has been exceeded, the greater the scrutiny to be applied by the court when assessing the merits of the proposed appeal, when determining whether to grant an extension of time for appealing. To that end, I have applied what I consider to be an appropriate level of stringency in appraising the prospects of the Applicant's proposed appeal, bearing in mind the relatively short delay in this case.

19 My decision to allow CM 71 also stems in part from the fact that, having perused the mitigation plea tendered below and the sentencing judge's

sentencing remarks in the minute sheet, I am somewhat constrained by the brevity of the judge's remarks from robustly dismissing the prospects of the Applicant's proposed appeal out of hand at this stage. Allowing CM 71 will thus afford the sentencing judge an opportunity to prepare detailed grounds that will allow the merits of the sentence imposed to be more deeply canvassed.

Conclusion

20 Accordingly, CM 71 is allowed.

Christopher Tan
Judge of the High Court

Sujesh Anandan and Siddhartha Bodi (Pro Bono SG) for the applicant;
Tan Jing Min (Attorney-General's Chambers) for the respondent.
