IN THE COURT OF APPEAL OF THE REPUBLIC OF SINGAPORE

[2025] SGCA 54

Court of Appeal / Originating Application (OAC) No 3 of 2025

Between

(1) Saminathan a/l Selvaraju

… *Applicant*

And

(1) Attorney-General

… *Respondent*

JUDGMENT

[Criminal Procedure and Sentencing — Stay of execution — Application under s 60G of the Supreme Court of Judicature Act 1969 (2020 Rev Ed) for permission to make a post-appeal application in a capital case]

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Saminathan a/l Selvaraju
v
Attorney-General

[2025] SGCA 54

Court of Appeal — Originating Application (OAC) No 3 of 2025
Tay Yong Kwang JCA
26 November 2025

26 November 2025

Tay Yong Kwang JCA:

Introduction

1 CA/OAC 3/2025 ("OAC 3") is an application by a prisoner awaiting capital punishment ("PACP"), Mr Saminathan a/l Selvaraju ("Mr Saminathan"). In this application filed under s 60G(1) of the Supreme Court of Judicature Act 1969 (2020 Rev Ed) ("SCJA"), Mr Saminathan asks for permission to file a post-appeal application in a capital case ("PACC application") to seek a prohibiting order against his execution scheduled for Thursday 27 November 2025, a quashing order for the notice of execution dated 20 November 2025 and a stay of his execution pending the conclusion of this application for permission and the PACC application.

2 Mr Saminathan was tried jointly in the High Court with Mr Mohammad Rizwan bin Akbar Husain ("Mr Rizwan") and Mr Zulkarnain bin Kemat

("Mr Zulkarnain"). In *Public Prosecutor v Zulkarnain bin Kemat and others* [2018] SGHC 161, Mr Zulkarnain was convicted for an offence under s 5(1)(*a*) read with s 5(2) of the Misuse of Drugs Act (Cap 185, 2008 Rev Ed) (the "MDA") for having 35 bundles of granular/powdery substance containing 301.6g of diamorphine (the "Drugs") in his possession for the purposes of trafficking. Mr Rizwan was convicted for an offence under s 5(1)(*a*) read with s 5(2) and s 12 of the MDA for abetting by instigating Mr Zulkarnain to be in possession of the Drugs for the purposes of trafficking. Mr Saminathan was convicted for an offence under s 5(1)(*a*) of the MDA for trafficking in the Drugs by delivering them to Mr Zulkarnain.

3 The Judge of the High Court ("the trial Judge") found that Mr Zulkarnain was a courier within the meaning of s 33B(2)(*a*) of the MDA. The Public Prosecutor issued a certificate of substantive assistance to him. The Judge exercised her discretion not to impose the death penalty on Mr Zulkarnain, sentencing him instead to life imprisonment. He was not liable for caning as he was above 50 years in age.

4 The trial Judge found that Mr Rizwan was not a courier. Further, Mr Rizwan did not receive a certificate of substantive assistance. Accordingly, the mandatory death sentence was imposed on him. Mr Saminathan was found to be a courier but he did not receive a certificate of substantive assistance. Therefore, the mandatory death sentence was also imposed on him.

5 Mr Zulkarnain did not appeal. Mr Rizwan and Mr Saminathan appealed against their convictions in CA/CCA 9/2018 and CA/CCA 13/2018 ("CCA 13"). Both appeals were dismissed on 8 May 2020 by the Court of Appeal comprising Judith Prakash JA, Tay Yong Kwang JA and Woo Bih Li J (as he then was). The Court of Appeal's judgment is in *Mohammad Rizwan bin*

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Akbar Husain v Public Prosecutor and another appeal and other matters [2020] SGCA 45.

6 Mr Rizwan's and Mr Saminathan's executions are scheduled for tomorrow, Thursday 27 November 2025. On Thursday 20 November 2025, Mr Saminathan was notified about this. The next day, he filed the present application, relying on the matters set out below.

7 On 28 October 2025, four members of an unincorporated body called the Transformative Justice Collective filed HC/OA 1213/2025 ("OA 1213"). OA 1213 was subsequently amended to reflect three additional applicants, who are also part of the Transformative Justice Collective. In that application, the applicants seek retrospective declarations that the mandatory death penalty under s 33(1) of the MDA read with its Second Schedule is unconstitutional for violating Arts 9(1) and 12(1) and infringing upon Art 93 of the Constitution of the Republic of Singapore (2020 Rev Ed) ("Constitution"). OA 1213 is scheduled to be heard on Wednesday 3 December 2025 before the General Division of the High Court.

8 Mr Rizwan and Mr Saminathan are not parties in OA 1213. However, in the present application, Mr Saminathan submits that OA 1213 is an ongoing case before the courts whose outcome may affect his conviction and sentence and a stay of execution should therefore be granted pending the determination of OA 1213.

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Present and historical proceedings

Present application in CA/OAC 3/2025

9 Mr Saminathan filed the present application on Friday 21 November 2025 afternoon, seeking the following reliefs:

> 1. That the execution of [Mr Saminathan] scheduled for 27 November 2025 be stayed pending the determination of this permission application and any consequent PACC application;
>
> 2. That permission be granted to file a PACC application seeking a prohibiting order of the execution of [Mr Saminathan] scheduled for 27 November 2025, and a quashing order of the notice of execution dated 20 November 2025;
>
> 3. Any other relief this Honourable Court deems fit.

Mr Saminathan's post-appeal applications

10 After his appeal in CCA 13 was dismissed by the Court of Appeal on 8 May 2020, Mr Saminathan filed various post-appeal applications. Mr Saminathan's petition for clemency was turned down by the President on 22 February 2021. A petition for clemency for Mr Saminathan filed by Mdm Selvakumari Selvaraju was rejected on 6 November 2025.

11 On 1 October 2020, a group of 22 inmates including Mr Saminathan commenced HC/OS 975/2020 ("OS 975"), an application against the Attorney-General and the Superintendent of Changi Prison for pre-action discovery and service of interrogatories. OS 975 was dismissed on 16 March 2021.

12 On 2 July 2021, a group of 13 inmates including Mr Saminathan filed HC/OS 664/2021 ("OS 664"), an application for leave to commence judicial review proceedings, seeking declarations that the Attorney-General acted *ultra vires* and unlawfully, prohibitory orders and private reliefs. OS 664 was

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withdrawn on 28 October 2021, with personal costs ordered against the applicants' counsel on 30 November 2021.

13 On 25 February 2022, a group of 13 inmates including Mr Saminathan commenced HC/OS 188/2022 ("OS 188"), seeking declarations that the Attorney-General acted unlawfully by requesting, disclosing and reproducing copies of their personal and confidential correspondence while they were in prison. OS 188 was dismissed in part on 1 July 2022, with nominal damages granted for some of the applicants.

14 On 29 July 2022, the inmates filed an appeal CA/CA 30/2022 ("CA 30") against the decision in OS 188. CA 30 was allowed in part on 11 October 2024. Declarations were made by the Court of Appeal. The Judge's decision on nominal damages for breach of copyright was not varied.

15 On 1 August 2022, 24 inmates including Mr Saminathan and Mr Rizwan commenced HC/OC 166/2022 ("OC 166"), a claim against the Attorney-General and the Government of Singapore for a declaration that ss 356, 357 and 409 of the Criminal Procedure Code 2010 (2020 Rev Ed) ("CPC") (which deal with the Court's power to order costs in criminal proceedings) were inconsistent with Arts 9(1) and 12(1) of the Constitution. The Attorney-General applied to strike out OC 166 on the grounds that it disclosed no reasonable cause of action, was an abuse of process and it was in the interests of justice for OC 166 to be struck out. On 3 August 2022, OC 166 was struck out in its entirety. The inmates filed an appeal CA/CA 31/2022 against the decision to strike out OC 166. Their appeal was dismissed by the Court of Appeal on 4 August 2022.

16 On 22 August 2022, four inmates including Mr Saminathan commenced HC/OA 480/2022 ("OA 480"), seeking the following reliefs: (a) a declaration

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that the presumptions contained in ss 18(1) and 18(2) of the Misuse of Drugs Act 1973 which were imposed upon the applicants should be read down and given effect as imposing only an evidential burden in compliance with Arts 9(1) and 12(1) of the Constitution and the common law presumption of innocence; (b) alternatively, a declaration that the presumption upon presumption contained in s 18(2) read with s 18(1) of the MDA which were imposed upon the applicants were unconstitutional for violating Arts 9(1) and 12(1) of the Constitution; and (c) a prohibitory order against the execution of the death sentences upon the applicants. OA 480 was dismissed on 25 November 2022.

17 The applicants then filed an appeal, CA/CA 2/2023 ("CA 2"), against the decision in OA 480. However, CA 2 was deemed withdrawn on 21 March 2023 as the time for filing the necessary documents pursuant to O 19 r 30(4) of the Rules of Court 2021 had expired. Subsequently, the applicants filed CA/SUM 8/2023 ("SUM 8") to reinstate CA 2 and for an extension of time to be granted to file the necessary documents. SUM 8 was dismissed on 25 May 2023. The applicants applied in CA/SUM 16/2023 ("SUM 16") for the dismissal of SUM 8 to be set aside and for the reinstatement of CA 2. SUM 16 was dismissed on 28 August 2025.

18 On 26 September 2023, a group of 36 inmates including Mr Saminathan and Mr Rizwan filed HC/OA 987/2023 ("OA 987"), seeking declarations that two provisions to be introduced by s 2(*b*) of the Post-appeal Applications in Capital Cases Act 2022 (No 41 of 2022) ("PACC Act") in the SCJA, *ie,* ss 60G(7)(*d*) and 60G(8) of the SCJA, were void for being inconsistent with Arts 9 and 12 of the Constitution. The Attorney-General applied to strike out OA 987 on the ground that it disclosed no reasonable cause of action. OA 987 was struck out on 5 December 2023.

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19 The inmates filed CA/CA 1/2024 ("CA 1") to appeal against the decision to strike out OA 987. Their appeal was dismissed by the Court of Appeal on 27 March 2024.

20 On 4 December 2023, Mr Saminathan filed CA/CM 47/2023 ("CM 47"), an application for permission under s 394H(1) of the CPC to review the Court of Appeal's judgment in CCA 13, arising from material disclosed by the Attorney-General's Chambers in CA 30. CM 47 was dismissed on 1 August 2024.

21 On 28 March 2024, a group of 36 inmates including Mr Rizwan and Mr Saminathan commenced HC/OA 306/2024 ("OA 306"), seeking (a) a declaration that the policy of the Legal Assistance Scheme in Capital Offences ("LASCO") Assignment Panel to not assign counsel for any post-appeal application was inconsistent with Art 9 of the Constitution; and (b) an order for damages. The Attorney-General filed HC/SUM 1124/2024 ("SUM 1124") to strike out OA 306 on the ground that it disclosed no reasonable cause of action. On 20 May 2024, SUM 1124 was allowed and OA 306 was struck out.

22 The striking out was appealed against in CA/CA 38/2024. The Court of Appeal dismissed the appeal on 9 September 2024.

The parties' submissions

Mr Saminathan's submissions

23 The basis on which Mr Saminathan seeks a stay of his execution is that OA 1213, which seeks to challenge the constitutionality of the mandatory death penalty, is "an ongoing case before the court" that may affect his conviction and sentence. In *Pannir Selvam Pranthaman v Attorney-General* [2025] 1 SLR 237

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("*Pannir Selvam (First PACC Permission)*") at [44], the applicant ("Mr Selvam") was granted a stay of execution on the basis that his conviction could be undermined by a then-ongoing constitutional challenge that he was not a party to.

24 While Mr Saminathan accepts that he is not a party in OA 1213, he submits that if OA 1213 succeeds and s 33B of the MDA is found to be unconstitutional, his death sentence would be affected. He contends that it is not for this court in the present application to speculate about the merits of OA 1213 as the possibility that a pending proceeding would have an impact on his conviction and/or sentence cannot be excluded (*Pannir Selvam Pranthaman v Attorney-General* [2025] 1 SLR 1345 at [25]). As OA 1213 has not been summarily dismissed and is scheduled for hearing on 3 December 2025, his scheduled execution should not proceed.

The Attorney-General's submissions

25 The Attorney-General ("AG") submits that the present application is an attempt to bypass the processes and safeguards of the PACC Act. OA 1213 raises arguments that have been amply ventilated before the courts and is a "thinly veiled attempt" by the applicants in that case to provide an avenue for PACPs to apply for stay of execution in a manner that subverts the procedure under the PACC Act.

26 The AG contends that the present application has no reasonable prospect of success. First, OA 1213 is plainly unmeritorious as the applicants in OA 1213 lack legal standing to bring the application. Second, *Pannir Selvam (First PACC Permission*) is distinguishable on the grounds that: (a) the applicants in OA 1213 lack legal standing, unlike the applicants in the pending legal proceedings in *Pannir Selvam (First PACC Permission*); and (b) the Court of

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Appeal there invited further submissions on substantive issues in relation to the pending legal proceedings in *Pannir Selvam (First PACC Permission*). That was an essential factor in finding that there was a reasonable prospect of success in *Pannir Selvam (First PACC Permission)*. In contrast, no submissions have been requested by the Court for OA 1213.

27 The AG also submits that the scheduling of Mr Saminathan's execution is consistent with the Ministry of Home Affairs' ("MHA") existing policy on the scheduling of executions. It refers to an affidavit filed on 24 November 2025 by Ms Koh Zhi Mian, a Deputy Director in the Policy Development Division of MHA, which explains this policy.

28 In essence, there are two prerequisites that must be met before MHA commences scheduling an execution. The first is that the death sentence stands after all due processes under the law affecting the offender's conviction and sentence have concluded. The second is that the Cabinet has advised the President, in relation to the exercise of the power under Art 22P(1) of the Constitution, that the law should be allowed to take its course.

The applicable law

29 Section 60G of the SCJA provides that an applicant must obtain permission from the Court of Appeal before making a PACC application. Section 60F of the SCJA defines a PACC application as any application which satisfies the following three criteria:

> (a) First, the application is not a "review application" within the meaning of s 394F of the CPC to review an earlier decision of the Court of Appeal relating to the offence for which the sentence of death was imposed on a PACP.

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(b) Second, the application is made by a PACP after the "relevant date" as defined in s 60F of the SCJA.

(c) Third, either (i) the application is for a stay of the execution of the death sentence on the PACP; or (ii) the determination of the application calls into question, or may call into question, the propriety of the conviction of, the imposition of the sentence of death on, or the carrying out of the sentence of death on, the PACP.

30 In deciding whether to grant an application for permission to make a PACC application, the Court of Appeal must consider the following matters under s 60G(7) of the SCJA (*Roshdi bin Abdullah Altway v Public Prosecutor and another matter* [2025] 1 SLR 605 at [29]):

(a) whether the PACC application to be made is based on material (being evidence or legal arguments) that, even with reasonable diligence, could not have been adduced in court before the relevant date;

(b) whether there was any delay in filing the application for PACC permission after the PACP or counsel for the PACP obtained the material and the reasons for the delay;

(c) whether the requirement under s 60G(4) to file written submissions for the PACC application within prescribed periods was complied with; and

(d) whether the PACC application to be made has a reasonable prospect of success.

31 Pursuant to ss 60G(8)–60G(10) of the SCJA, an application for permission to make a PACC application may be dealt with summarily by a

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written order of the Court of Appeal without being set down for hearing. Before summarily refusing or granting an application for permission to make a PACC application, the Court of Appeal must consider the applicant's written submissions but is only required to consider the respondent's written submissions before summarily granting an application for permission to make a PACC application.

Decision of the Court

Stay of execution due to the constitutional challenge in OA 1213

Background of OA 1213

32 To recapitulate, Mr Saminathan seeks to rely on OA 1213, a constitutional challenge against the mandatory death penalty brought by persons unrelated to him, as the basis for seeking a stay of his execution. The reliefs sought in OA 1213 are:

> 1. A DECLARATION that the mandatory punishment of death contained within Section 33(1) of the Misuse of Drugs Act 1973 read with its Second Schedule is unconstitutional for violating Articles 9(1) and 12(1) of the Singapore Constitution.
>
> 2. A DECLARATION that the mandatory punishment of death contained within Section 33(1) of the Misuse of Drugs Act 1973 read with its Second Schedule is unconstitutional for infringing upon Article 93 of the Singapore Constitution.
>
> 3. That the orders in paragraphs a and b above operate retrospectively.
>
> 4. Any other order/relief the Honourable Court deems fit.

33 OA 1213 is brought by seven individuals who are members of the Transformative Justice Collective, described in the supporting affidavit as a non-governmental organisation started in October 2020 with the purpose to seek the abolition of the death penalty and reform of the criminal justice system. The seven applicants are set out below:

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(a) Mr Howe Wen Khong Rocky, Ms Annamalai Kokila Parvathi, Ms Han Li Ying Kirsten and Mr Wham Kok Han Jolovan are members of the Transformative Justice Collective who have been involved in various campaigns for PACPs.

(b) Ms Leelavathy d/o Suppiah is the sister of Tangaraju s/o Suppiah who was convicted and sentenced under the MDA. His mandatory death sentence was carried out on 26 April 2023.

(c) Ms Rockey Sharmila is the sister of Syed Suhail bin Syed Zin, who was convicted and sentenced under the MDA. His mandatory death sentence was carried out on 23 January 2025.

(d) Ms Nazira Lajim Hertslet is the sister of Nazeri bin Lajim, who was convicted and sentenced under the MDA. His mandatory death sentence was carried out on 22 July 2022.

34 The applicants in OA 1213 aver that they have the legal standing to bring OA 1213 to challenge the mandatory death penalty as a specialized interest group on the death penalty in Singapore and as abolitionist activists. The applicants in [33(b)] to [33(d)] also rely on the fact that they are the close next-of-kin of the persons who have been executed. They claim that it is in the public interest that the constitutionality of the mandatory death penalty is properly litigated to prevent any continued violation of the protections enshrined in the Constitution.

35 The applicants in OA 1213 contend that the mandatory death penalty contravenes Art 9(1) of the Constitution as it is contrary to the rules of natural justice, breaches the right to a fair trial, is contrary to the common law principle of proportionality in punishment and is procedurally and substantively unfair.

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The applicants also contend that the mandatory death penalty violates Art 12(1) of the Constitution as it is contrary to the test of reasonable classification, equal protection of the law and the principle of proportionality. They also assert that it is contrary to Art 93 of the Constitution which vests judicial power in the Judiciary.

Whether to grant a stay of execution on the basis of OA 1213

36 Mr Saminathan submits that in *Pannir Selvam (First PACC Permission)*, Mr Selvam was granted a stay of execution on the basis that his conviction could be undermined by a pending constitutional challenge, notwithstanding the fact that Mr Selvam was not a party to that constitutional challenge. Mr Saminathan contends that as OA 1213 would undermine his conviction and/or sentence if it succeeds and since it has not been summarily dismissed, his execution should not proceed. He argues that the Court in the present application should not speculate about the merits of OA 1213 and should instead stay his execution pending the determination of OA 1213.

37 A stay of execution will not be granted solely because there are some pending legal proceedings, regardless of the merits of those proceedings. If the legal position is otherwise, it would encourage PACPs and spur interest groups and other persons to mount unending unmeritorious constitutional challenges against the MDA or other death penalty legislation just to stall all executions. As the AG points out, such an outcome would contradict Parliament's intention in enacting the PACC Act which was to "ensure that safeguards are in place to prevent abuse of process by a PACP when making a PACC application".

38 As mentioned at [30(d)] above, one of the factors that Parliament requires the Court to consider is whether the PACC application to be made has reasonable prospects of success. In the context of the present application, since

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the pending OA 1213 forms the very substratum of Mr Saminathan's arguments for a stay of execution, the issue whether the PACC application has reasonable prospects of success hinges entirely on the question whether OA 1213 has reasonable prospects of success.

39 In considering whether OA 1213 has reasonable prospects of success, I look only at the legal issue of the constitutionality of the mandatory death penalty in the MDA. I express no views on the legal standing of the seven applicants or the reliefs sought. While the applicants in OA 1213 have not filed their legal submissions, they have averred on affidavit that they are relying on the grounds that the mandatory death penalty contravenes both Arts 9(1) and 12(1) of the Constitution.

40 The applicants in OA 1213 contend that the mandatory death penalty violates Art 9(1) of the Constitution on grounds which are substantively similar to those raised and decided in other cases by the highest court in Singapore:

> (a) First, the applicants in OA 1213 contend that the mandatory death penalty is contrary to the rules of natural justice. However, as the Privy Council has recognised in *Ong Ah Chuan and another v Public Prosecutor* [1979–1980] SLR(R) 710 ("*Ong Ah Chuan*") at [32], cited in the Court of Appeal decision of *Yong Vui Kong v Public Prosecutor and another matter* [2010] 3 SLR 489 ("*Yong Vui Kong*") at [20]–[21], the argument that capital punishment is unconstitutional in itself is foreclosed by the recognition in Art 9(1) that a person may be deprived of life "in accordance with law". The mandatory nature of the sentence has been held not to be arbitrary or not "in accordance with law" (see *Ong Ah Chuan* at [32] and [38]).

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(b) Second, the applicants aver that the mandatory death penalty breaches the right to a fair trial. Article 9(1) of the Constitution has been held to incorporate fundamental rules of natural justice, including procedural rights aimed at securing a fair trial (see *Jumaat bin Mohamed Sayed and others v Attorney-General* [2025] 1 SLR 1287 ("*Jumaat")* at [55], citing *Tan Seng Kee v Attorney-General* [2022] 1 SLR 1347 at [254], citing *Yong Vui Kong v Public Prosecutor* [2015] 2 SLR 1129 at [64]), and the imposition of presumptions on accused persons under the MDA has been found not to be inconsistent with fundamental rules of natural justice (*Jumaat* at [58]–[59] and [80]–[87]). In any case, it is unclear how the mandatory death penalty, being a sentencing outcome upon the determination of guilt, could impugn the procedural right to a fair trial.

(c) Third, the applicants argue that the mandatory death penalty is contrary to the common law principle that punishment must be proportionate. This has been addressed in that the Constitution expressly provides that a person may be deprived of life in accordance with law (see [40(a)] above and the authorities cited there). In *Nguyen Tuong Van v Public Prosecutor* [2005] 1 SLR(R) 103 ("*Nguyen Tuong Van*") at [82]–[87], a similar argument that the mandatory death penalty offends international norms of proportionality and individualised treatment was rejected on the basis that the mandatory death penalty was sufficiently discriminating.

(d) Fourth, the applicants aver that the mandatory death penalty is procedurally and substantively unfair. The Court of Appeal has held previously that provisions relating to the mandatory death penalty and the court's discretion under s 33B of the MDA to sentence a person to

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life imprisonment where statutory requirements are met are not absurd, arbitrary or contrary to the rule of law (*Prabagaran a/l Srivijayan v Public Prosecutor and other matters* [2017] 1 SLR 173 ("*Prabagaran*") at [93] and [97]).

41 The applicants in OA 1213 also submit that the mandatory death penalty violates Art 12(1) and Art 93 of the Constitution for various reasons:

(a) First, the applicants contend that the mandatory death penalty is "contrary to the test of reasonable classification" and it is also contrary to the equal protection of the law, as convictions based on different culpabilities and/or circumstances are treated alike. Similar arguments have been considered by our Courts in relation to whether it was unconstitutional for a mandatory death penalty to be imposed for trafficking above a specified amount, as there could be considerable variation in moral blameworthiness across offenders despite the same mandatory sentence being passed (*Ong Ah Chuan* at [39]–[40]). The Privy Council held that there was nothing unconstitutional about a mandatory death penalty, as equal protection of the law only requires that like be compared with like. Article 12 of the Constitution did not forbid discrimination in treatment between classes of individuals to which there was a difference in circumstances, such as the quantity of the drugs involved (*Ong Ah Chuan* at [35]–[36]). Therefore, the two-step "reasonable classification" test was satisfied in relation to the imposition of the mandatory death penalty for trafficking a certain quantity of drugs as the classification was founded on an intelligible differentia, which bore a rational relation to the object of preventing drug addiction and stamping out the illicit drug trade (*Nguyen Tuong Van* at [69]–[70]).

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(b) Second, the applicants claim that the mandatory death penalty is contrary to the principle of proportionality contained in Art 12(1) of the Constitution. However, this has been considered and rejected in *Ong Ah Chuan* at [38] and *Yong Vui Kong* at [111]–[113].

(c) Third, the applicants argue that the mandatory death penalty infringes upon Art 93 of the Constitution, which vests the judicial power of the Republic of Singapore in the Judiciary. A similar argument was considered and rejected by the Court of Appeal (see *Nguyen Tuong Van* at [87]–[88] and [95]–[98]). The Court of Appeal has also recognised that the power to prescribe punishments belongs to Parliament while the courts' power is to exercise its sentencing discretion as conferred by statute to select the appropriate punishment. The court did not consider the mandatory death penalty to be a case in which the executive's powers were found to have intruded into the sentencing power of the court (*Prabagaran* at [60], [62] and [63]).

42 As all the legal questions raised have been addressed by the former Privy Council and our Court of Appeal in the cases of *Ong Ah Chuan*, *Nguyen Tuong Van, Yong Vui Kong, Prabagaran* and *Jumaat*, the latest challenge in OA 1213 is merely a challenge against clear established law. There is nothing to suggest that there is any real issue for determination in the constitutional challenge. Therefore, there are no reasonable prospects of success for OA 1213 where the constitutional questions are concerned and there is no reason to await the outcome of OA 1213. Accordingly, no permission should be granted for Mr Saminathan to commence a PACC application for stay of execution on the basis that OA 1213 is pending determination by the court.

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Mr Saminathan's submissions received at 11.32am this morning

43 At 11.32am today, the Supreme Court Registry received Mr Saminathan's further handwritten submissions through the Singapore Prison Service. Mr Saminathan reiterates that his execution should be stayed pending the outcome of OA 1213 and that he has no plans to challenge the mandatory death penalty.

44 He also alleges for the first time that "new evidence has surfaced through another case (Public Prosecutor v Ramadass) (Raj Kumar s/o Aiyachami) (Raj Kumar v Public Prosecutor and another appeal (2022) (SGCA 45) that directly links to drug syndicate and the individual known as "Muruga/Murugan" to both accused persons". He then alleges that there are "serious unresolved issues concerning identification, DNA interpretation, missing materials, witness and evidential reliability" and elaborates on these alleged issues.

45 It is clear that a PACC application is not intended to be a second appeal. Mr Saminathan is trying to re-argue factual issues decided by the Court of Appeal in CCA 13 or trying to introduce new evidence without complying with the statutory requirements in the SCJA or the CPC on review of appellate court decisions. In doing this, he is also changing the complexion of his stay application which was built all along on the pending proceedings in OA 1213. This is clearly an abuse of the process of the Court. Accordingly, I dismiss Mr Saminathan's latest submissions.

Conclusion

46 Having considered the parties' submissions, it is clear that a stay of execution should not be granted. Pursuant to s 60G(8) of the SCJA, I dismiss summarily Mr Saminathan's present application for permission to file a PACC

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application and for a stay of execution of his sentence, without setting it down for hearing.

Tay Yong Kwang
Justice of the Court of Appeal

The applicant in person;
Anandan Bala, Marcus Foo, Yohanes Ng, Vishnu Menon and
Joel Fun (Attorney-General's Chambers) for the respondent.

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