

IN THE COURT OF APPEAL OF THE REPUBLIC OF SINGAPORE

[2026] SGCA 40

Court of Appeal / Originating Application (OAC) No 3 of 2026

Between

Sanjay Krishnan

... Applicant

And

Attorney-General

... Respondent

JUDGMENT

[Criminal Procedure and Sentencing — Sentencing — Stay of execution — Applicant seeking stay of execution due to fresh evidence — Whether permission to make post-appeal application in capital case should be granted — Section 60G Supreme Court of Judicature Act 1969]

TABLE OF CONTENTS

BACKGROUND	2
TRIAL	2
APPEAL	3
POST-APPEAL APPLICATIONS	4
THE PRESENT APPLICATION	4
THE PARTIES' ARGUMENTS IN THE PRESENT APPLICATION.....	5
THE APPLICANT'S ARGUMENTS.....	5
THE RESPONDENT'S ARGUMENTS.....	7
THE APPLICABLE LAW	8
THE DECISION OF THE COURT	9
THE MARCH STATEMENTS ARE EXTERNALLY AND INTERNALLY INCONSISTENT AND UNRELIABLE.....	10
BALA HAS RECANTED THE MARCH STATEMENTS.....	12
CONCLUSION.....	13
ANNEX: POST-APPEAL APPLICATIONS MADE BY THE APPLICANT	15

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Sanjay Krishnan
v
Attorney-General

[2026] SGCA 40

Court of Appeal — Originating Application (OAC) No 3 of 2026
See Kee Oon JAD
8 September 2026

8 September 2026

See Kee Oon JAD:

1 This is an application filed on 7 September 2026 by Mr Sanjay Krishnan (“Applicant”), a prisoner awaiting capital punishment, under s 60G of the Supreme Court of Judicature Act 1969 (2020 Rev Ed) (“SCJA”). The Applicant’s execution is scheduled on 9 September 2026.

2 The Applicant seeks permission to make a post-appeal application in a capital case (“PACC Application”) for a stay of his execution to enable further investigation and examination of fresh evidence. An applicant seeking to file a stay application must first apply for permission from this court (see *Sulaiman bin Jumari v Public Prosecutor* [2024] SGCA 40 (“*Sulaiman*”) at [9]–[11]).

3 This application has been placed before me as a single Judge sitting in the Court of Appeal pursuant to s 60G(2) of the SCJA.

Background

Trial

4 On 11 September 2020, the Applicant was convicted and sentenced after trial before a Judge of the General Division of the High Court (“Judge”) in HC/CC 42/2017. He was jointly tried with one Dzulkarnain bin Khamis (“Dzulkarnain”), who faced a charge of trafficking in not less than 2,375.1g of cannabis under s 5(1)(a) of the Misuse of Drugs Act (Cap 185, 2008 Rev Ed) (“MDA”) by delivering the cannabis to the Applicant. The Applicant faced a corresponding charge of possession of the cannabis for the purpose of trafficking of the same under s 5(1)(a) read with s 5(2) of the MDA. The Applicant was liable to suffer capital punishment pursuant to s 33(1) read with the Second Schedule to the MDA.

5 The judgment of the General Division of the High Court is set out in *Public Prosecutor v Dzulkarnain bin Khamis* [2021] SGHC 48 (“Judgment”). The facts of the case have been set out in full in the Judgment. For present purposes, I set out only a brief summary of the salient facts.

6 On 23 February 2015, Dzulkarnain collected a brown box from a bus stop near Tuas Checkpoint. He then drove to Lorong 21 Geylang, and thereafter to Lorong 37 Geylang (“Lorong 37”). At Lorong 37, a team of officers from the Central Narcotics Bureau (“CNB”) saw that Dzulkarnain placed a brown box behind a green dustbin before driving off. Another team of officers then saw that the Applicant drove to Lorong 37 and retrieved a brown box from behind the green dustbin before driving off. Both the Applicant and Dzulkarnain were arrested shortly after. The officers retrieved from the Applicant’s car, amongst other things, a brown box which contained five bundles of vegetable matter.

Following analysis by the Health Sciences Authority, these bundles were found to contain, amongst other things, not less than 2,375.1g of cannabis.

7 At the close of trial, the Judge found that the Applicant had knowingly taken possession of the brown box and its contents for delivery purposes to a third party. As such, he was proved to be in possession of the drugs for the purposes of trafficking.

8 The Judge rejected the Applicant's defence that he believed the brown box contained only some collectors' hunting knives and possibly contraband cigarettes. She found that his narrative (including, for example, what he knew or believed the brown box to contain) had evolved over time on material aspects. Given the suspicious nature of the transaction, he did not have any reason to believe, contrary to his claims, that he was being tasked to deliver only some collectors' hunting knives and possibly contraband cigarettes. His lies and evasiveness also affected his credibility. As such, the Applicant had not rebutted the presumption under s 18(2) of the MDA that he had known of the nature of the drugs. Given that the elements of the charge against the Applicant were made out, the Judge found him guilty and convicted him accordingly.

9 The Judge further found that the Applicant was a mere courier within the meaning of s 33B(2)(a)(i) of the MDA. However, as he was not issued a certificate of substantive assistance under s 33B(2)(b) of the MDA, the alternative sentencing regime under s 33B(1)(a) of the MDA was not available to him. The Judge therefore imposed on him the mandatory death sentence.

Appeal

10 In CA/CCA 32/2020 ("CCA 32"), the Applicant appealed against his conviction and sentence. Prior to the hearing of the appeal, the Applicant filed

an application to adduce further evidence, which was dismissed on 2 March 2022. He subsequently filed a second application to adduce further evidence, which was heard together with the appeal.

11 On 19 January 2023, the Court of Appeal dismissed both the second application to adduce further evidence as well as the appeal, stating that it was satisfied that the Judge had examined the evidence carefully and saw no basis for interfering with the Judge’s decision. The Court of Appeal’s grounds of decision are set out in *Dzulkarnain bin Khamis v Public Prosecutor* [2023] 1 SLR 1398.

Post-appeal applications

12 After the dismissal of his appeal, the Applicant filed several applications which are listed chronologically in the annex of this judgment.

The present application

13 On 25 August 2026, the President issued an order for the Applicant to be executed on 9 September 2026 pursuant to s 313(1)(f) of the Criminal Procedure Code 2010 (2020 Rev Ed) (“CPC”). After being informed of the date of execution, the Applicant filed this application, supported by an affidavit by Mr Andre Darius Jumabhoy (“Mr Jumabhoy”), his current solicitor, dated 7 September 2026 and a set of written submissions. This is the first application that he has made under s 60G of the SCJA.

14 As directed by the court, the Respondent’s written submissions in reply to this application were filed on 8 September 2026. The Respondent did not file any affidavit in reply.

15 The Applicant’s primary ground in support of this application is that three statements recorded by the CNB in March 2026 from one Balachandran s/o Bernard (“Bala”), known as “Bala Lak Ko” to the Applicant (or “Bala Luk Kor” as he was referred to in the prior court proceedings), would exonerate the Applicant (“March Statements”). Bala had maintained in these statements that he had instructed the Applicant and Dzulkarnain to collect and deliver the brown box but had not informed them about the contents of the same. These statements were only recently disclosed to the Applicant’s previous solicitors by the Attorney-General’s Chambers on 11 August 2026, and the Applicant claims that he was only notified by his previous solicitors of the statements on 3 September 2026. The Applicant therefore requests, in the intended PACC Application, for the court to: (a) stay his execution; and (b) order the Respondent to disclose the full circumstances surrounding the recording of, and delay in disclosing, Bala’s statements.

16 I turn now to consider the Applicant’s written submissions, the affidavit by Mr Jumabhoy and the Respondent’s written submissions.

The parties’ arguments in the present application

The Applicant’s arguments

17 The Applicant makes the following arguments. First, the fresh evidence in the form of Bala’s statements could not have been adduced at an earlier date. These were recorded more than three years after the Applicant’s appeal was dismissed and they were not even disclosed to his previous solicitors until 11 August 2026, or to the Applicant himself until 3 September 2026. There was also no delay on the Applicant’s part because he wrote a letter requesting the court to stay his execution on 4 September 2026, one day after he was apprised of the fresh evidence.

18 Second, the intended PACC Application has a reasonable prospect of success. Bala's statements are directly material to the central factual issue at trial, namely whether the Applicant knew that the brown box he had collected contained drugs and the nature of those drugs. They may also have affected whether the Prosecution would have determined the Applicant to be a courier and issued him a certificate of substantive assistance. Although Bala eventually recanted the March Statements in further statements made in May 2026 ("May Statements"), the May Statements should be treated with caution because: (a) they were made immediately after he was served with a formal notification under s 33B(3) of the MDA, which would have drawn his attention to the potential consequence of the mandatory death sentence; (b) their credibility is undermined by Bala's allegations that he was motivated to give the May Statements because of persecution by "Interpol" and other allegations against former and current senior office-holders; and (c) the March Statements were much more coherent than the May Statements. Whether the March Statements should be accepted, and whether the May Statements ought to be believed over the March Statements, are matters that ought properly to be tested at trial and determined by the courts. These are exceptional circumstances justifying a stay. There is a real risk of an irreversible miscarriage of justice if the Applicant were to be executed before the fresh evidence can be properly tested. On the other hand, the Respondent would suffer minimal prejudice if a stay of execution were to be granted. The public interest in the accurate and fair administration of criminal justice outweighs any administrative interest in proceeding with the execution.

19 Third, the intended PACC Application is not an abuse of process, given how Bala's statements came to light, and the fact that this is the Applicant's first application of any kind under the present PACC regime. It also does not risk

opening any floodgates for prisoners pending executions to abuse the court process, given that the present circumstances are unique.

The Respondent's arguments

20 The Respondent's central argument is that the March Statements carry no evidential weight, for three reasons.

21 First, the March Statements are fundamentally irreconcilable with the accounts given by the Applicant and Dzulkarnain at trial and on appeal and with certain aspects of the objective evidence.

22 Second, the March Statements are inherently incredible. Despite knowing that he ordered 5kg of cannabis which he was prepared to pay \$5,000 for, Bala adopted an inexplicably cavalier approach to arranging the drug transaction, making only one phone call each to Dzulkarnain and the Applicant without giving them any instructions on what to do with the package after collection. It is entirely implausible that the Applicant and Dzulkarnain would agree to collect a package after receiving one phone call from Bala, without any promise of payment and without asking any further questions.

23 Third, Bala has since recanted the March Statements, and there is no basis for the Applicant's argument that this was out of fear of the mandatory death sentence.

24 The Respondent further argues that this application is an abuse of process. The Applicant does not even appear to say that the March Statements constitute material that is compelling and capable of showing almost conclusively that there has been a miscarriage of justice, only that there *may* be sufficient evidence to exonerate him. Further, the Applicant is misguided in the

legal positions that he has taken in this application, including his request for an order for the Respondent to disclose the full circumstances surrounding the recording of, and delay in disclosing, the fresh evidence. This application is therefore made without any reasonable basis and has absolutely no prospect of success.

The applicable law

25 The present case amounts to a PACC Application as defined in s 60F of the SCJA (see also *Sulaiman* at [10]):

- (a) it is not a review application within the meaning of s 394F of the CPC, as the Applicant is not asking this court to review the earlier decision in CCA 32;
- (b) it is made after the “relevant date”, *ie*, the date of this court’s dismissal of the appeal in CCA 32 in relation to the offence for which the death sentence was imposed; and
- (c) it seeks a stay of the execution of the death sentence.

26 In deciding whether to grant permission to file a PACC Application, the court must consider the following matters in s 60G(7) of the SCJA:

- (a) whether the intended PACC Application 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 permission for the PACC Application after the applicant or counsel for

the applicant obtained the material mentioned above, and the reasons for the delay;

(c) whether s 60G(4) of the SCJA, which provides that the applicant seeking permission must file written submissions in support of the application, and such other documents as prescribed in the Rules of Court 2021, within the prescribed periods, is complied with; and

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

27 The above considerations mirror those that may be found in s 394H(6A) of the CPC in respect of the grant of permission to make a review application (*Mohammad Azwan bin Bohari v Public Prosecutor* [2024] 1 SLR 1271 at [15]–[16]).

The decision of the court

28 In this application, the Applicant seeks to introduce fresh evidence after the dismissal of his appeal in CCA 32. He must demonstrate a reasonable prospect of success for what is in substance a prospective review application. This is in line with the observations of the Court of Appeal in *Pannir Selvam Pranthaman v Attorney-General* [2025] 1 SLR 1345 (at [43]), to the effect that the PACC regime under the SCJA is purely procedural in nature, and the substantive grounds underlying the PACC application must be found elsewhere.

29 I accept that the matters the Applicant seeks to raise (namely, the purported self-incriminating admissions by Bala in the March Statements) could not have been adduced in court before the relevant date, as they were recorded by the CNB after the relevant date. There was also no unreasonable delay in

filing the PACC Application after the material was obtained, and the requisite written submissions and documents have been filed.

30 Crucially, however, the material relied upon by the Applicant is not compelling and thus the intended PACC Application would not have a reasonable prospect of success (see s 60G(7)(d) of the SCJA). I am therefore of the view that this application should be refused for the following reasons.

The March Statements are externally and internally inconsistent and unreliable

31 The Applicant relies on the March Statements. By May 2026, it became clear from the May Statements that Bala had given false information in his March Statements, which he recanted.

32 It is immaterial that the March Statements contained detailed information and were self-inculpatory. This by itself does not make the March Statements credible or reliable in the circumstances. As the Respondent has correctly pointed out, the March Statements are both externally and internally inconsistent and carry no evidential weight. I highlight the following material inconsistencies.

33 First, contrary to the March Statements, in the narratives that Dzulkarnain and the Applicant advanced at trial, Bala was a peripheral figure at best in so far as their defences were concerned. Although Dzulkarnain had elected to remain silent after his defence was called, he had referred in his statements to one “Bala Luk Kor” as his friend and a member of a gang known as “369”. On 22 February 2015, “Bala Luk Kor” allegedly told Dzulkarnain that the Applicant, who was another member of “369”, had a drug delivery job for Dzulkarnain and would contact him directly. Subsequently, Dzulkarnain was

contacted by the Applicant, and collected the brown box from Tuas Checkpoint and left it at Lorong 37 on his instructions. The Applicant had also referred to “Bala”, but only as an individual whom he had met at Newton Hawker Centre on the night of 22 February 2015 to collect money owed from a previous drinking session.

34 Second, Bala had claimed that he did not tell the Applicant and Dzulkarnain what the box contained. The key plank of the Applicant’s defence, however, was that he believed that the box contained collectors’ hunting knives and possibly contraband cigarettes, based on what “Boy Lai” had told him. The Applicant’s handphone records also did not reveal any phone calls that might have been purportedly made by Bala on 23 February 2015 from his unregistered Nokia phone, contrary to Bala’s claims that he had made one phone call each to Dzulkarnain and the Applicant respectively on that day.

35 Third, although Bala stated that a box wrapped to look like an innocuous “birthday gift” was involved in the delivery process, as a matter of fact, the brown box in question was *not* wrapped like an innocuous gift. In the course of the investigations, Bala was shown a photograph of the brown box (Exhibit P35). Bala himself described it as an “ugly package”. When he was thereafter informed that this was the brown box, it is telling that he had nothing to say in response.

36 Essentially, there was no prior allegation that “Bala” was directly involved at all in the drug delivery arrangement. According to the Applicant, it was “Boy Lai” who instructed him to collect the brown box. What is clear from the foregoing is that neither the Applicant nor Dzulkarnain had ever claimed that Bala was the one who had directly instructed them to collect and deliver the brown box. This however was the central feature of Bala’s claims in the March

Statements. As such, contrary to the Applicant's submission, it cannot be said that Bala's account is consistent with the evidence that the Applicant had given at trial.

Bala has recanted the March Statements

37 Over and above the aforementioned points, the pivotal consideration is that Bala had unreservedly admitted to having clearly fabricated the information in the March Statements. The Applicant makes the point that Bala may have recanted the March Statements because of a sudden and subsequent realisation that he could potentially face the mandatory death sentence after being served the s 33B(3) MDA notification. However, this argument is untenable. In Bala's statement of 10 March 2026, he had clearly stated that "I admit that I know the sentence of this case is death. That's why I have been running away for many years. I know that when I confess now, I also may face death." Bala was evidently already fully cognisant of the potential implications of his statement from the outset. Far from what the Applicant contends, it was not Bala's fear of the gallows that caused him to recant.

38 It is true that Bala's ostensible explanation for giving the false information in the March Statements may appear somewhat incoherent and implausible. Bala claimed that he gave the March Statements as he believed that "Interpol" had been monitoring him and had committed serious crimes against his family. He explained in his statement of 11 May 2026 that he understood that the "government sector is Interpol and ministers – Mr Lee Hsien Loong and family, Mr Shanmugam and family as well as Mdm Halimah Yacob and family" and that he wished to sue them. One may well be readily inclined to dismiss these seemingly outlandish explanations. Whatever Bala's real motivations may have been for furnishing the March Statements, the fact remains that the March

Statements carry no evidential weight as Bala is plainly an unreliable witness.

39 Although the Respondent has not furnished an explanation for the alleged delay in disclosing the fresh evidence to the Applicant, I agree that there is in any event no basis for the Applicant to request for the full disclosure of the circumstances surrounding the recording of, and alleged delay in disclosing, the fresh evidence. As I have explained above, the March Statements carry no evidential weight and there is therefore no prejudice arising from the alleged delay in disclosure.

40 To sum up, investigations have already been completed to assess the veracity of Bala's claims. Bala has roundly disavowed the March Statements. His claims are plainly not credible in any case and not consistent with the Applicant's defence. There is therefore simply no fresh evidence that ought to be further tested or determined judicially, and which might exonerate the Applicant such as to warrant a stay. As Bala's evidence is of no evidential value, it would also not have affected the Prosecution's determination that the Applicant was not a courier or its decision not to issue him a certificate of substantive assistance. There is no real risk of an irreversible miscarriage of justice if a stay is not granted.

41 For completeness, I pause to observe that even if there is no abuse of process in making this application, this is a neutral factor; it does not lend added credence to the Applicant's arguments in this application.

Conclusion

42 For the above reasons, I am not persuaded that the PACC Application that the Applicant seeks permission to make has any reasonable prospect of

success. There are no exceptional reasons to justify the grant of a stay of execution.

43 Accordingly, I summarily refuse this application for permission without setting it down for a hearing pursuant to s 60G(8) of the SCJA.

See Kee Oon
Judge of the Appellate Division

Andre Darius Jumabhoy and Eng Zhen Yang Aristotle Emmanuel
(Andre Jumabhoy LLC) for the applicant;
Nicholas Wuan Kin Lek and Darren Ang Jin Wee (Attorney-
General's Chambers) for the respondent.

Annex: Post-appeal applications made by the Applicant

S/N	Case number	Brief facts	Outcome
1	HC/OA 987/2023 ("OA 987")	OA 987 was an application by a group of 36 inmates (including the Applicant) for declarations that certain provisions in the Post-appeal Applications in Capital Cases Act 2022 (No. 41 of 2022) (which would introduce ss 60G(7)(d) and 60G(8) into the Supreme Court of Judicature Act 1969 ("SCJA")) were void for being inconsistent with Arts 9 and 12 of the Constitution of the Republic of Singapore ("Constitution"). The Attorney-General filed HC/SUM 3096/2023 ("SUM 3096") to strike out OA 987 in its entirety.	The Attorney-General's striking out application in SUM 3096 was allowed and OA 987 was struck out on 5 December 2023.

2	CA/CA 1/2024 ("CA 1")	CA 1 was an appeal by the same group of 36 inmates (including the Applicant) against the Judge's decision in SUM 3096 to strike out OA 987.	CA 1 was dismissed on 27 March 2024.
3	HC/OA 306/2024 ("OA 306")	OA 306 was an application by a group of 36 inmates (including the Applicant) for: (a) a declaration that the policy of the Legal Aid Scheme for Capital Offences to not assign counsel for the purposes of post-appeal applications 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 in its entirety.	The Attorney-General's striking out application in SUM 1124 was allowed and OA 306 was struck out on 20 May 2024.

4	CA/CA 38/2024 ("CA 38")	CA 38 was an appeal by the same group of 36 inmates (including the Applicant) against the Judge's decision in SUM 1124 to strike out OA 306.	CA 38 was dismissed on 9 September 2024.
5	HC/OA 972/2024 ("OA 972")	OA 972 was an application by a group of 31 inmates (including the Applicant) for declarations that ss 60G(7)(d), 60G(8), 60H(6) and 60I(1) of the SCJA and s 313(2) of the CPC were void for being inconsistent with Arts 9 and 12 of the Constitution. The Attorney-General filed HC/SUM 2898/2024 ("SUM 2898") to strike out OA 972 in its entirety.	The Attorney-General's striking out application in SUM 2898 was allowed and OA 972 was struck out on 5 February 2025. There was no appeal against the Judge's decision to strike out OA 972.