Abdul Mutalib bin Aziman *v* Public Prosecutor and other appeals
[2021] SGHC 102

Case Number	: Magistrate's Appeals Nos 9438, 9778, 9780 and 9790 of 2020
Decision Date	: 27 April 2021
Tribunal/Court	: General Division of the High Court
Coram	: Sundaresh Menon CJ; Tay Yong Kwang JCA; Vincent Hoong J
Counsel Name(s)	: The appellants in HC/MA 9438/2020, HC/MA 9778/2020 and HC/MA 9790/2020 in person; Chung Ting Fai and Poh Jun Zhe Malcus (Chung Ting Fai & Co) for the appellant in HC/MA 9780/2020; Wong Woon Kwong, Dora Tay, Sunil Nair, Norine Tan and Cheng Yuxi (Attorney-General's Chambers) for the respondent; Zhuang WenXiong (WongPartnership LLP) as young amicus curiae.
Parties	: Abdul Mutalib Bin Aziman — Public Prosecutor — Mani s/o Muthia Chelliah — Norfarah Binte Amir Hamzah — Amanshah Bin Omar

Criminal Procedure and Sentencing – Sentencing – Principles

27 April 2021 Judgment reserved.

Sundaresh Menon CJ (delivering the judgment of the court):

Introduction

1 HC/MA 9438/2020 ("MA 9438"), HC/MA 9778/2020 ("MA 9778"), HC/MA 9780/2020 ("MA 9780") and HC/MA 9790/2020 ("MA 9790") concern appellants who had been released from prison on remission subject to conditions, but who subsequently breached one or more of those conditions. Of particular relevance is the condition that offenders who are released from prison on remission are not to commit further offences ("fresh offences") while the remission order is in effect. Those who do and are convicted of such offences may be punished, pursuant to s 50T of the Prisons Act (Cap 247, 2000 Rev Ed) ("Prisons Act"), with an enhanced sentence in addition to the underlying sentence(s) meted out in respect of the fresh offence(s). They may, in addition, be convicted of and sentenced for a distinct offence under s 50Y of the Prisons Act if they fail to adhere to certain other conditions of their remission.

2 The present appeals are against sentences imposed under these two provisions, each of which gives rise to novel questions of law on the applicable sentencing principles. We therefore directed that the four appeals be heard together by a three-judge *coram* pursuant to s 386(1) of the Criminal Procedure Code (Cap 68, 2012 Rev Ed) ("CPC"). We further appointed Mr Zhuang WenXiong ("Mr Zhuang") as young *amicus curiae* to assist us with the legal issues pertaining to the applicable sentencing principles. We are deeply grateful for the considerable effort applied by Mr Zhuang in researching these issues to assist us.

An overview of the legislative framework

3 Until the Prisons Act was amended by the Prisons (Amendment) Act 2014 (Act 1 of 2014), offenders were released unconditionally after serving two-thirds of a sentence of imprisonment. The Prisons Act was amended on 1 July 2014 to introduce the Conditional Remission System ("CRS") and the Mandatory Aftercare Scheme ("MAS"). The CRS and the MAS are two separate but related

schemes designed to continue the process and enhance the prospects of rehabilitating prison inmates even after their release from prison. Whereas the CRS applies to all inmates upon their release, the MAS applies, in addition, to selected groups of inmates who are ascertained to be at a higher risk of reoffending or who require more help in their quest for rehabilitation and reintegration into society (see *Singapore Parliamentary Debates, Official Report* (20 January 2014) vol 91 ("the 2014 Parliamentary Debates")).

4 Under the CRS, the basic condition of a remission order is that the ex-inmate shall not commit any fresh offence (which, pursuant to s 50S(1)(*a*) of the Prisons Act, does not include an offence under s 50Y(1) of the Prisons Act) while the remission order is in effect, *and* shall not be convicted of and sentenced to imprisonment (not including a default sentence of imprisonment), corrective training, reformative training or preventive detention for any fresh offence. If this basic condition is breached, an enhanced sentence may be imposed under s 50T of the Prisons Act in respect of the fresh offence committed. Thus, the consequence of breaching the basic condition upon which the sentence for an earlier offence (the "original offence") was remitted, by committing a fresh offence, is a potential enhancement of the underlying sentence for the fresh offence.

5 Turning to the MAS, that subjects the ex-inmate to various mandatory aftercare conditions. The mandatory aftercare conditions are applicable to certain categories of high-risk ex-inmates who are released under the CRS and concurrently placed on the MAS by virtue of s 50U of the Prisons Act. One such mandatory aftercare condition ("MAC") is that the ex-inmate shall remain indoors at his place of residence, or at such other place as the Commissioner of Prisons may specify, at certain times of the day (see s 50V(3)(*c*) of the Prisons Act). In these appeals, the appellants, who had all been released from prison subject to both the CRS and the MAS, were required to reside at Selarang Halfway House ("SHH") under their respective MACs. The failure to remain indoors as specified constitutes a serious breach of a MAC, which is an offence punishable under s 50Y(1) of the Prisons Act. For convenience, we shall refer to this offence as a "s 50Y offence", and to a charge in respect of this offence as a "s 50Y charge".

6 In these appeals, the appellants had: (a) received enhanced sentences pursuant to s 50T of the Prisons Act for fresh offences committed while they were on remission; and (b) also been sentenced under s 50Y for a serious breach of a MAC. These appeals thus bring to the fore the sentencing approach that should be taken in such circumstances. Before considering the parties' submissions and the applicable legal principles, we first outline the specific facts pertaining to each appeal.

The facts

MA 9438

7 The appellant in MA 9438 is Abdul Mutalib bin Aziman ("Abdul"). In 2016, Abdul was convicted of one charge of consuming a specified drug and two charges of failing to present himself for a urine test ("FPUT"), which was an offence punishable under reg 15(3)(*f*) read with reg 15(6)(*a*) of the Misuse of Drugs (Approved Institutions and Treatment and Rehabilitation) Regulations (Cap 185, Rg 3, 1999 Rev Ed). He was sentenced to a total of five years and six months' imprisonment and three strokes of the cane.

8 On 14 September 2019, Abdul was released from prison subject to a remission order covering the unserved portion of his sentence from 14 September 2019 to 11 July 2021. On 10 February 2020, Abdul failed to report for his urine test without a valid reason, which was a fresh FPUT offence. As this offence had been committed while his remission order was in effect, Abdul was liable to be

punished under s 50T(1)(*a*) of the Prisons Act with an enhanced sentence of imprisonment.

9 Additionally, Abdul's remission order was also subject to MACs as he was regarded as a high-risk ex-inmate by virtue of his earlier conviction for drug consumption. One of the MACs required him to reside at SHH, and specifically to remain there between 10.00pm and 6.00am every day of the week, although this requirement could be adjusted from time to time by either Abdul's supervision officer or the manager of SHH. On 28 March 2020, Abdul failed to return to SHH by the stipulated time of 10.00pm. When contacted by SHH's staff, Abdul replied that he had requested his Programme Executive ("PE") to extend the time by which he was required to return to SHH. He also requested that the time for his return be extended to 10.00pm on 29 March 2020 because he needed to attend to an urgent family matter. Abdul subsequently forwarded to SHH's staff a screenshot of his request to his PE for an extension of the deadline for his return to SHH. The screenshot showed that his request had not been approved by his PE because he had not provided any verification to support the request. Abdul's separate request for the time by which he was to return to SHH to be extended to 10.00pm on 29 March 2020 was also rejected. SHH's staff informed Abdul of this on 29 March 2020. Abdul replied that he would update SHH after attending to unspecified family matters. On 30 March 2020, Abdul returned to SHH, having failed to remain indoors at SHH for a total of 32 hours and 41 minutes between 28 March 2020 and 30 March 2020. This was an offence under s 50Y(1) of the Prisons Act.

10 Abdul subsequently pleaded guilty to one FPUT charge and one s 50Y charge. Two other FPUT charges were taken into consideration for the purposes of sentencing. Abdul was sentenced to: (a) nine months' imprisonment with an enhanced sentence of 285 days' imprisonment in respect of the FPUT offence; and (b) 22 days' imprisonment in respect of the s 50Y offence. These sentences were ordered to run consecutively, resulting in an aggregate sentence of nine months and 22 days' imprisonment, with an enhancement of 285 days' imprisonment (see *Public Prosecutor v Abdul Mutalib Bin Aziman* [2020] SGDC 173 ("*Abdul Mutalib*") at [3] and [54]).

MA 9778

11 The appellant in MA 9778 is Mani s/o Muthia Chelliah ("Mani"). In 2015, Mani was convicted of a drug consumption charge and two FPUT charges, for which he was sentenced to an aggregate of five years and six months' imprisonment. On 1 April 2019, he was released from prison subject to a remission order covering the unserved portion of his sentence from 1 April 2019 to 28 January 2021.

12 On 3 September 2019, after Mani was arrested for fresh drug-related offences, his urine samples were found to contain monoacetylmorphine as a result of his having consumed diamorphine. Mani admitted that he been consuming diamorphine since May 2019, and that he had last done so on 1 September 2019. This was an offence of drug consumption under s 8(*b*)(ii) of the Misuse of Drugs Act (Cap 185, 2008 Rev Ed) ("MDA"). As Mani had previously been convicted of the same offence and punished under s 33A(1) of the MDA, his fresh drug consumption offence was what is known as an "LT-2" drug consumption offence. Accordingly, he was liable to punishment under s 33A(2) of the MDA. Further, as this fresh offence had been committed while his remission order was in effect, Mani was liable to be punished under s 50T(1)(*a*) of the Prisons Act with an enhanced sentence of imprisonment.

13 On 21 September 2019, Mani failed to return to SHH by the time he was required to. Messages were sent and calls were made by SHH's staff to Mani, but he did not respond. On 22 September 2019, Mani informed SHH's staff that he was having some unspecified problems. On 24 September 2019, Mani returned to SHH and was then arrested, having failed to remain indoors at SHH for a total of 58 hours and 30 minutes between 21 September 2019 and 24 September 2019. This was an

offence under s 50Y(1) of the Prisons Act.

14 Additionally, on 23 September 2019, Mani failed to present himself for a urine test without valid reasons, which was a fresh FPUT offence. As this offence had been committed while his remission order was in effect, Mani was liable to be punished under s 50T(1)(*a*) of the Prisons Act with an enhanced sentence of imprisonment.

15 Mani pleaded guilty to one LT-2 drug consumption charge pertaining to the consumption of diamorphine, one s 50Y charge and one FPUT charge. Two other FPUT charges and one other drug consumption charge pertaining to the consumption of methamphetamine were taken into consideration for the purposes of sentencing. Mani was sentenced to: (a) the mandatory minimum sentence of seven years' imprisonment with an enhanced sentence of 278 days' imprisonment (adjusted downwards from 320 days' imprisonment) in respect of the LT-2 drug consumption charge; (b) 100 days' imprisonment in respect of the s 50Y charge; and (c) eight months' imprisonment with an enhanced sentence of 135 days' imprisonment (adjusted downwards from 166 days' imprisonment) in respect of the FPUT charge (see *Public Prosecutor v Mani s/o Muthia Chelliah* [2020] SGDC 204 ("*Mani*") at [3]). All the sentences were ordered to run consecutively, resulting in an aggregate sentence of seven years, eight months and 100 days' imprisonment, with an enhancement of 413 days' imprisonment.

MA 9780

16 The appellant in MA 9780 is Norfarah bte Amir Hamzah ("Norfarah"). In 2015, Norfarah was convicted of a drug consumption charge and a moneylending-related charge, for which she was sentenced to a total of six years' imprisonment. On 5 January 2019, Norfarah was released from prison subject to a remission order covering the unserved portion of her sentence from 5 January 2019 to 23 December 2020.

17 On 10 July 2019, Norfarah was arrested on suspicion that she had consumed a controlled drug. Subsequently, her urine samples were found to contain morphine arising from her having consumed diamorphine. Norfarah admitted to having done so three days prior to her arrest. This was an offence of drug consumption under s 8(*b*)(ii) of the MDA. As Norfarah had previously been convicted of the same offence and punished under s 33A(1) of the MDA, her fresh drug consumption offence was an LT-2 drug consumption offence and she was liable to punishment under s 33A(2) of the MDA. Furthermore, as this fresh offence had been committed while her remission order was in effect, Norfarah was liable to be punished under s 50T(1)(*a*) of the Prisons Act with an enhanced sentence of imprisonment.

18 On 17 July 2019, Norfarah was admitted to Changi General Hospital for vertigo. On 20 July 2019, SHH's staff were informed that Norfarah had absconded from her ward at about 2.30pm the previous day. Norfarah did not respond to the messages and calls to her from SHH's staff. Norfarah was subsequently arrested on 22 July 2019, having failed to remain indoors at SHH for a total of 75 hours and 30 minutes between 19 July 2019 and 22 July 2019. This was an offence under s 50Y(1) of the Prisons Act.

19 Norfarah pleaded guilty to one LT-2 drug consumption charge pertaining to the consumption of morphine and one s 50Y charge. Two other charges were taken into consideration for the purposes of sentencing: one s 50Y charge for failing to wear the electronic transmitting device issued to her under s 50V(3)(*e*)(i) of the Prisons Act and one charge under s 426 of the Penal Code (Cap 224, 2008 Rev Ed) ("Penal Code") for committing mischief. Norfarah was sentenced to: (a) seven years' imprisonment with an enhanced sentence of 272 days' imprisonment (adjusted downwards from

444 days' imprisonment) in respect of the LT-2 drug consumption charge; and (b) 261 days' imprisonment in respect of the s 50Y charge (see *Public Prosecutor v Norfarah Binte Amir Hamzah* [2020] SGDC 171 ("*Norfarah*") at [63] and [64]). All of these sentences were ordered to run consecutively, resulting in an aggregate sentence of seven years and 261 days' imprisonment, with an enhancement of 272 days' imprisonment.

MA 9790

20 The appellant in MA 9790 is Amanshah bin Omar ("Amanshah"). In 2015, Amanshah was convicted of theft in a building used as a dwelling-house or for the custody of property (referred to hereafter as "theft in a dwelling" for short) and several other drug-related offences, for which he was sentenced to seven years, four months and two weeks' imprisonment and six strokes of the cane. On 6 December 2019, Amanshah was released from prison subject to a remission order covering the unserved portion of his sentence from 6 December 2019 to 20 May 2022.

21 On 11 January 2020, Amanshah was working as a warehouse assistant. He was tasked with sorting the items he received and placing them onto a conveyor belt. While at work, he took two sets of socks from one of the parcels and placed them into his bag. This was an offence of theft in a dwelling under s 380 of the Penal Code. As this fresh offence had been committed while his remission order was in effect, Amanshah was liable to be punished under s 50T(1)(*a*) of the Prisons Act with an enhanced sentence of imprisonment.

22 On 16 February 2020, Amanshah failed to return to SHH by the time he was required to. SHH's staff made multiple calls and sent multiple messages to him on 17 February 2020, but he did not respond. On 28 February 2020, Amanshah surrendered himself for drug-related offences and was arrested, having failed to remain indoors at SHH for a total of 279 hours and 25 minutes between 16 February 2020 and 28 February 2020. This was an offence under s 50Y(1) of the Prisons Act.

23 On 28 February 2020, after his surrender, Amanshah provided urine samples, which were found to contain morphine. He admitted to having consumed diamorphine prior to his arrest. This was an offence of drug consumption under s 8(*b*)(ii) of the MDA. As Amanshah had previously been convicted of the same offence and punished under s 33A(1) of the MDA, his fresh drug consumption offence was an LT-2 drug consumption offence and he was liable to punishment under s 33A(2) of the MDA. Furthermore, as this fresh offence had been committed while his remission order was in effect, Amanshah was liable to be punished under s 50T(1)(*a*) of the Prisons Act with an enhanced sentence of imprisonment.

24 Also on 28 February 2020, a straw containing granular or powdery substance was recovered from Amanshah. This was analysed and found to contain not less than 0.01g of diamorphine. Amanshah admitted that he had purchased the straw of diamorphine for his own consumption. This was an offence of drug possession under s 8(*a*) of the MDA. As Amanshah had previously been convicted of the same offence and punished under s 33(1) of the MDA, he was liable (likewise under s 33(1) of the MDA) to be sentenced to the mandatory minimum sentence of two years' imprisonment for the fresh drug possession offence. Furthermore, as this fresh offence had been committed while his remission order was in effect, Amanshah was liable to be punished under s 50T(1)(*a*) of the Prisons Act with an enhanced sentence of imprisonment.

25 Amanshah subsequently pleaded guilty to one charge of theft in a dwelling, one LT-2 drug consumption charge pertaining to the consumption of morphine, one drug possession charge and one s 50Y charge. Three other charges were taken into consideration for the purposes of sentencing: one drug consumption charge, one drug possession charge and one charge for the possession of drug

utensils. Amanshah was sentenced to: (a) one month's imprisonment with an enhanced sentence of 254 days' imprisonment in respect of the theft in a dwelling charge; (b) seven years and six months' imprisonment and six strokes of the cane with an enhanced sentence of 368 days' imprisonment in respect of the LT-2 drug consumption charge; (c) two years' imprisonment with an enhanced sentence of 239 days' imprisonment in respect of the drug possession charge; and (d) 275 days' imprisonment in respect of the s 50Y charge. The imprisonment sentences for the theft in a dwelling charge and the drug possession charge were ordered to run concurrently, resulting in an aggregate sentence of seven years, six months and 275 days' imprisonment and six strokes of the cane, with an enhancement of 861 days' imprisonment (see *Public Prosecutor v Amanshah Bin Omar* [2020] SGDC 205 ("*Amanshah*") at [8] and [9]).

The relevant provisions of the Prisons Act

26 We turn now to the relevant provisions of the Prisons Act, beginning with the provisions pertaining to the CRS. The basic condition of a remission order is set out in s 50S as follows:

> **All remission orders subject to basic condition**
>
> **50S.**—(1) It is the basic condition of every remission order made under Division 2 or 3 that the person released under the remission order —
>
> (*a*) shall not commit any offence (not including an offence under section 50Y(1)) while the remission order is in effect; and
>
> (*b*) shall not be convicted of that offence and sentenced to any of the following:
>
> (i) a sentence of imprisonment (not including a default sentence);
>
> (ii) corrective training;
>
> (iii) reformative training;
>
> (iv) preventive detention.
>
> …

27 The consequences of committing a fresh offence (which, as mentioned at [4] above, does not include a s 50Y offence) in breach of this basic condition are set out in s 50T, the relevant parts of which read as follows:

> **Breach of basic condition and enhanced sentence**
>
> **50T.**—(1) When a person commits an offence in breach of the basic condition of his remission order made under Division 2 or 3, the court may, in addition to imposing any sentence on the person for that offence, impose an enhanced sentence for that offence as follows:
>
> (*a*) imprisonment for a term not exceeding the remaining duration of the remission order, as determined based on the date of the commission of the offence; or
>
> (*b*) imprisonment for any term or for life, if the duration of the remission order is for the person's natural life.

(2) If a person commits 2 or more offences in breach of the basic condition of his remission order made under Division 2 or 3 —

(*a*) the court may, in addition to imposing any sentence on the person for those offences, impose an enhanced sentence under subsection (1) for each of those offences; and

(*b*) the aggregate length of all the enhanced sentences imposed under subsection (1) shall not exceed the remaining duration of the remission order, as determined based on the date of the earliest offence committed.

(3) In deciding whether to impose any enhanced sentence under subsection (1) or (2) with respect to any offence, and if so the length of the enhanced sentence, the court shall consider —

(*a*) the gravity of the offence;

(*b*) whether the offence is of a similar nature to the offence for which the person under a remission order was originally sentenced;

(*c*) the length of time for which the person did not commit any offence after being released under that remission order; and

(*d*) all other relevant circumstances.

…

(5) Notwithstanding any provision in any written law, a term of imprisonment imposed on any person as an enhanced sentence under this section shall run consecutively to all other terms of imprisonment imposed on him.

…

28 We make some preliminary observations. First, for conceptual clarity, it should be noted that s 50T does not create a distinct offence in respect of which an enhanced sentence is imposed. Rather, the enhanced sentence imposed under s 50T is an enhancement of the underlying sentence imposed in respect of a *fresh offence*, as opposed to the original offence in relation to which the remission order was issued. However, in deciding on the duration of the enhanced sentence, the court is required to have regard to the remaining duration of the remission order pertaining to the original offence (as determined at the time of the fresh offence in question), together with certain other considerations.

29 Second, as evinced by the word "may" in ss 50T(1) and 50T(2)(*a*) as well as the reference in s 50T(3) to the decision "whether to impose any enhanced sentence", the imposition of an enhanced sentence for a fresh offence is not mandatory. However, should the court decide to impose an enhanced sentence, that sentence cannot exceed the remaining duration of the remission order at the time of the fresh offence (or the earliest fresh offence, if multiple fresh offences are committed), and, in any event, *must* run consecutively to all other terms of imprisonment imposed.

30 Turning to the MAS, the various MACs are set out in s 50V(3) of the Prisons Act. The commission of a *serious* breach of a MAC is itself an offence under s 50Y, which reads as follows:

Offence of serious breach of mandatory aftercare condition

50Y.—(1) A person who commits a serious breach of a mandatory aftercare condition of his remission order shall be guilty of an offence and shall be liable on conviction to —

(*a*) imprisonment for a term not exceeding the remaining duration of the remission order, as determined based on the date of the offence; or

(*b*) imprisonment for any term or for life, if the duration of the remission order is for life.

(2) In deciding the punishment to be imposed for an offence under subsection (1), the court shall consider —

(*a*) the gravity of the serious breach;

(*b*) the length of time for which the person did not commit any breach of a mandatory aftercare condition after being released under the remission order;

(*c*) whether the serious breach evidences a lack of commitment by the person to his rehabilitation and reintegration into society; and

(*d*) all other relevant circumstances.

(3) If a person commits 2 or more offences under subsection (1) —

(*a*) the court may sentence him under subsection (1) for each of those offences; and

(*b*) the aggregate length of all the sentences imposed under subsection (1) shall not exceed the remaining duration of the remission order, as determined based on the date of commission of the first offence.

…

(5) Notwithstanding any provision in any written law, a term of imprisonment imposed under this section on any person shall run consecutively to all other terms of imprisonment imposed on him.

…

31 Again, we make a few preliminary observations. First, as is the case with an enhanced sentence under s 50T, the imprisonment term imposed for a s 50Y offence must not exceed the remaining duration of the remission order at the time of the s 50Y offence (or the earliest s 50Y offence, if multiple s 50Y offences are committed), and *must* run consecutively to all other terms of imprisonment imposed. However, unlike s 50T, s 50Y creates a separate and distinct offence (namely, the offence of committing a serious breach of a MAC) for which the offender is being punished. Also, in contrast to s 50T, the imposition of an imprisonment term for a s 50Y offence is mandatory, as evinced by the word "shall" in s 50Y(1).

The purpose of ss 50T and 50Y of the Prisons Act

32 It is apparent that ss 50T and 50Y of the Prisons Act operate to rescind the whole or part of the remaining duration of a remission order in the event that an offender commits a fresh offence or a serious breach of a MAC while on remission. The question for us is how the court should analyse and

construe the relevant provisions and implement the mechanism by which a remission order may be rescinded. The starting point of this analysis must be Parliament's intention in enacting the CRS and the MAS set out in the Prisons Act. Parliament's two-fold purpose in this regard can be gleaned from s 50E(1) of the Prisons Act, which provides as follows:

> **Purpose and application**
>
> **50E.**—(1) This Part [meaning Part VB of the Prisons Act] makes provision for the remission of sentences for the purpose of —
>
> (*a*) encouraging good conduct and industry by prisoners who are serving their sentences; and
>
> (*b*) facilitating the rehabilitation of prisoners and their reintegration into society.
>
> …

33 In short, the CRS and the MAS strive to achieve the twin objectives of incentivising inmates towards good conduct while they are in prison, and promoting their rehabilitation and reintegration into society after their release. Parliament plainly recognised that the process of rehabilitating offenders and reintegrating them back into society necessarily continues even after their release from prison. As the then Senior Minister of State for Home Affairs, Mr Masagos Zulkifli B M M ("the Senior Minister of State"), observed in the 2014 Parliamentary Debates:

> … [T]he introduction of the CRS and [the] MAS marks a paradigm shift in our approach to aftercare, bringing us in line with practices in other jurisdictions. Inmates will no longer be released from prison without conditions attached. The CRS seeks to deter ex-inmates from re-offending and the MAS will strengthen Prisons' system of throughcare by providing structured arrangements for selected groups of ex-offenders in the period immediately after their release.
>
> Both initiatives augment current programmes to reduce offending and re-offending and improve the rehabilitation and reintegration of ex-offenders into society. …

34 The emphasis on rehabilitation and reintegration should be seen in the context of the problem of recidivism. Where an ex-inmate commits an offence after his release from prison, this suggests that the objective of rehabilitation has not been achieved in his case. The importance of reducing recidivism rates was emphasised by the Senior Minister of State in the 2014 Parliamentary Debates as follows:

> Declining crime rates and the strengthening of Prisons' throughcare approach have contributed to the decline in the prison population and improvements in the recidivism rate. …
>
> However, we cannot be complacent. Many inmates are repeat offenders. Last year, they made up more than 80% of the prison population. In addition, many repeat offenders have drug antecedents. Indeed, more than 80% of repeat offenders in prison last year were imprisoned for a drug offence or had a drug antecedent. Repeat offenders are also more likely to re-offend and spend a longer time behind bars.
>
> This is why we are introducing the [CRS] and the [MAS]. …

35 In short, the project of rehabilitation and reintegration necessarily continues even after an

offender has been released from prison. As part of that endeavour, Parliament addressed the need to tackle the issue of recidivism. The CRS and the MAS aim to provide incentives for offenders to maintain good behaviour while they are in prison, stay crime-free upon their release and engage in constructive pursuits thereafter in the hope that over time, they can break free from the cycle of criminal behaviour. To this end, ss 50T and 50Y provide a mechanism to rescind the whole or part of the remission period granted to an offender in respect of his original offence(s) so as to deter him from reoffending after his release from prison, while incentivising him to stay crime-free for as long as possible.

The issues of law raised in the present appeals

36 In framing the issues that we must determine in these appeals, we think it is helpful to highlight the unique nature of s 50T enhanced sentences and s 50Y offences. The imposition of an enhanced sentence under s 50T of the Prisons Act for a fresh offence does not fit neatly within the orthodox goals of sentencing. In the context of s 50T, while the court is punishing an offender for his fresh offence(s), it may at the same time also rescind the whole or part of the remission period granted to him in respect of his original offence(s). Similarly, although s 50Y(1) creates a distinct offence, it too is unique because the offence consists of committing a serious breach of a condition upon which the sentence for the original offence was remitted, and the maximum sentence that the court can impose for such a breach is capped by the remaining duration of the remission order at the time of the breach. It is perhaps because of these unique dimensions to ss 50T and 50Y of the Prisons Act that there has been some uncertainty regarding the appropriate sentencing framework and principles to be applied in respect of both provisions.

The uncertainty in the law

37 In relation to enhanced sentences meted out pursuant to s 50T of the Prisons Act, the lower courts have adopted two different sentencing approaches in calibrating the appropriate length of the enhanced sentence:

(a) In *Public Prosecutor v Mohamad Dom bin Matsaad* [2020] SGMC 11 ("*Mohamad Dom*"), the court held (at [60]) that the starting point for an enhanced sentence under s 50T should be "the full period remaining of the remission order as at the date of the commission of the [fresh offence]". This, however, could be adjusted downwards based on the statutory factors set out in s 50T(3). The *Mohamad Dom* approach was subsequently applied in *Norfarah*.

(b) In *Abdul Mutalib* (at [37]–[48]), *Mani* (at [30]–[37]) and *Amanshah* (at [18]–[35]), the District Court applied the sentencing framework proposed by the Prosecution, which, in broad terms, comprised three stages: (i) first, analysing the offence-specific factors spelt out in the Prisons Act to determine the applicable sentencing band and the starting point within the three possible sentencing bands; (ii) second, calibrating the indicative starting point within the applicable sentencing band; and (iii) third, considering any other relevant circumstances, including offender-specific factors. In short, the District Court adopted a sentencing band approach to determine the applicable starting point, rather than relying on the remaining duration of the remission order at the time of the fresh offence as the starting point.

38 As regards s 50Y(1) of the Prisons Act, the lower courts have likewise applied two different sentencing approaches in determining the appropriate sentence for a s 50Y offence:

(a) In *Norfarah* (at [54]–[61]), the District Court applied a modified version of the *Mohamad Dom* sentencing framework. The court affirmed (at [39]–[42]) that the starting point in

sentencing for a s 50Y offence should be the full remaining duration of the remission order at the time of the serious breach of the MAC in question, before adjustments were made on account of the gravity of the breach. A similar approach seems to have been adopted by the District Court in *Public Prosecutor v Chandrasegaran s/o Raman* [2018] SGDC 105 at [25]–[26].

(b) In contrast, in *Abdul Mutalib* (at [49]–[53]), *Mani* (at [40]–[45]) and *Amanshah* (at [32]–[34]), the District Court applied a sentencing band approach similar to what had been adopted in relation to s 50T. Under this approach, the starting point in sentencing depends on whether the offender's culpability is characterised as being "low", "medium" or "high" by reference to the statutory factors outlined in s 50Y(2).

39 The courts below have also diverged on three specific points of law:

(a) First, there has been some uncertainty as to whether a guilty plea to a fresh offence is a mitigating factor that should be taken into consideration to diminish the length of the enhanced sentence imposed under s 50T of the Prisons Act. In *Mohamad Dom* at [70] and *Norfarah* at [52], the court held that such a guilty plea was irrelevant when determining the appropriate length of the enhanced sentence for the fresh offence because it would already have been considered when deciding on the underlying sentence for that offence; therefore, giving the offender further credit would amount to double-counting the benefit from pleading guilty. In contrast, in *Abdul Mutalib* (at [46] and [53]), *Mani* (at [33] and [37]) and *Amanshah* (at [52], [57] and [61]), the court considered an offender's guilty plea to a fresh offence to be a mitigating factor when determining the appropriate length of the enhanced sentence for that offence.

(b) Second, it has not been clear whether the totality principle applies to the aggregate of the imprisonment sentences imposed under s 50T and/or s 50Y. The court in *Norfarah* doubted the applicability of the totality principle in this context (at [44]). In contrast, the court in *Mani* (at [48]) and *Amanshah* (at [68]) accepted the Prosecution's submission that the individual sentences imposed under s 50T and/or s 50Y could and should be calibrated downwards on account of the totality principle in appropriate cases.

(c) Third, in cases involving both fresh offences and s 50Y offences, it has yet to be clarified whether the court can impose a cumulative sentence under ss 50T and 50Y that exceeds the remaining duration of the remission order at the time of the earliest fresh or s 50Y offence committed by the offender while on remission (referred to hereafter as the "earliest offence" for short). In this regard, the court in *Norfarah* suggested (at [60]–[61]) that there was no legal impediment to the imposition of such a sentence, although it cautioned that such a sentence should generally not be imposed because it would violate the spirit of the Prisons Act. The court in *Mani* agreed (at [46]–[47]). However, in *Amanshah*, the cumulative sentence imposed by the court under ss 50T and 50Y in fact exceeded the remaining duration of Amanshah's remission period at the time of his earliest offence by 275 days.

40 Given the relative recency of ss 50T and 50Y of the Prisons Act, it is not surprising that the reasoning applied by the courts below has largely been based on first principles. As a result, there has been a lack of coherence and consistency, which is plainly not satisfactory. This is especially so given the quest for broad parity and consistency in sentencing. Against this backdrop, these appeals present a suitable opportunity for us to clarify and provide guidance on the basic sentencing framework, principles and considerations pertinent to ss 50T and 50Y.

The issues to be determined

41 A number of issues arise for our determination, which we have broadly framed as follows to incorporate the areas of uncertainty that have been identified above:

(a) Which sentencing approach is best suited to the determination of the appropriate sentences under ss 50T and 50Y of the Prisons Act?

(i) In relation to enhanced sentences under s 50T, should the court start with a presumptive rescindment of the entire remaining duration of the remission order at the time of the fresh offence concerned, or should it adopt a sentencing band approach or some other approach altogether?

(ii) Similarly, in relation to sentences for s 50Y offences, should the court start with a presumptive rescindment of the entire remaining duration of the remission order at the time of the s 50Y offence concerned, or should it adopt a sentencing band approach or some other approach altogether?

(b) What sentencing factors should the court take into account in calibrating sentences under ss 50T and 50Y? In particular, where s 50T is concerned, should a guilty plea in respect of a fresh offence be considered in calibrating the enhanced sentence for that offence?

(c) How should the court approach cases involving the commission of multiple fresh offences and s 50Y offences? Specifically, can the court impose a cumulative sentence under ss 50T and 50Y that exceeds the remaining duration of the remission order at the time of the offender's earliest offence?

(d) How does the totality principle apply in the context of sentences imposed under ss 50T and 50Y?

The appropriate sentencing framework for sentences under ss 50T and 50Y of the Prisons Act

42 As a preliminary point, we reiterate the unique nature of ss 50T and 50Y of the Prisons Act. As has been noted, although the sentences meted out under ss 50T and 50Y are in respect of *fresh* offences (in the case of s 50T) and serious breaches of MACs (in the case of s 50Y), the factors that go towards determining the length of such sentences have some reference to the original offence(s) in respect of which the offender was granted remission. This peculiar aspect of ss 50T and 50Y is relevant for the purposes of formulating the appropriate sentencing framework.

43 Because of this nuance, we also consider that the analysis and approach that we have developed in the present appeals may not be appropriate for cases concerning offenders whose original offences entail a sentence of *life imprisonment*. As Mr Zhuang pointed out, given that the rescindment of the remaining duration of the remission order for such offenders may potentially entail their returning to prison for the rest of their natural lives, the considerations that the sentencing court will have to take into account are likely to be different from those that apply in cases where the sentence for the original offence does not involve life imprisonment. We therefore leave the question of the sentencing approach for offenders sentenced to *life imprisonment* for their original offences to be considered and developed in a future case when it arises directly for our determination.

The sentencing band approach

44 As with any sentencing framework, the court's first task lies in the selection of the appropriate

approach. As has been noted, two different sentencing approaches have been applied in relation to s 50T enhanced sentences and sentences for s 50Y offences: the "single starting point" approach and the "sentencing band" approach, to use the terminology adopted by the Court of Appeal in *Ng Kean Meng Terence v Public Prosecutor* [2017] 2 SLR 449 ("*Terence Ng*") at [26] and [36]:

(a) Under the single starting point approach, the court assumes a single presumptive starting point for all cases before taking into account the factors which will then influence the calibration of the sentence for the particular case at hand. In relation to ss 50T and 50Y, this presumptive starting point has been taken to be the *full remaining duration of the remission order* at the time of the fresh offence in question (in the case of s 50T) or the serious breach of the MAC concerned (in the case of s 50Y), which is the maximum sentence that may be imposed under s 50T and s 50Y respectively (see *Mohamad Dom* at [61] in relation to s 50T enhanced sentences and *Norfarah* at [41(a)] in relation to sentences for s 50Y offences).

(b) Under the sentencing band approach, the court identifies sentencing bands and determines the applicable sentence by first situating the case at hand within the appropriate sentencing band. In determining the appropriate sentencing band, the court will consider the factors identified in ss 50T(3) and 50Y(2). This approach was applied in *Abdul Mutalib*, *Mani* and *Amanshah* to both s 50T enhanced sentences and sentences for s 50Y offences.

45 The Prosecution and Mr Zhuang are in agreement that the sentencing band approach should be applied to both s 50T enhanced sentences and sentences for s 50Y offences. We concur. In our judgment, the sentencing band approach is the more appropriate approach in this context. We consider that the single starting point approach is inappropriate for the following reasons:

(a) That approach is best suited for situations "where the offence in question almost invariably manifests itself in a particular way and the range of sentencing considerations is circumscribed" (see *Terence Ng* at [28]). However, the fresh offences which can trigger the imposition of enhanced sentences under s 50T do not manifest themselves in a particular way, and can be *any* non-s 50Y offence which results in a sentence of imprisonment (not including a default sentence of imprisonment), corrective training, reformative training or preventive detention (see ss 50S(1)(*a*) and 50S(1)(*b*) of the Prisons Act). Similarly, s 50Y offences may manifest themselves as serious breaches of *any* of the MACs listed in s 50V(3) of the Prisons Act.

(b) The presumptive starting point of the full remaining duration of the remission order at the time of the relevant offence is incompatible with the general principle that the sentence should fit the criminality that is present in a given case. Furthermore, not all fresh offences warrant the imposition of an enhanced sentence under s 50T; nor are all s 50Y offences of equal severity.

(c) By taking the full remaining duration of the remission order at the time of the relevant offence as the presumptive starting point, the single starting point approach accords primacy to *deterrence*. However, as we pointed out at [33]–[35] above, both the CRS and the MAS place equal emphasis on *deterrence* on the one hand and *rehabilitation and reintegration* on the other as relevant considerations. To that extent, the single starting point approach does not seem to us to accord sufficient weight to the objective of rehabilitation and reintegration.

46 We turn to the sentencing band approach, which, in our view, is the more appropriate approach for the following reasons:

(a) The sentencing band approach enables sentencing courts to develop a sentencing framework that covers the entire range of offences in terms of their gravity, and empowers them

to choose an indicative starting point out of a *band* of possible sentences. These features equip sentencing courts with greater flexibility to arrive at sentences that are both proportionate and appropriate in all the circumstances (see *Terence Ng* at [37(d)]).

(b) The statutory factors to be considered under ss 50T(3) and 50Y(2) are *qualitative* in nature. This entails that the sentencing band approach is preferable to the "multiple starting points" approach, which is premised on the presence of a single or predominant *quantitative* metric that acts as a yardstick for the starting point (see *Terence Ng* at [30]).

(c) The statutory factors to be considered under ss 50T(3) and 50Y(2) are broad, since fresh offences and s 50Y offences may be committed in a myriad of different situations. To that extent, it is difficult to establish a set of "principal factual elements" which can "significantly affect the seriousness of an offence in all cases" (see *Terence Ng* at [34]). The sentencing band approach is therefore to be preferred as well over the "sentencing matrix" approach given that the latter is predicated on the existence of such a set of principal facts.

47 Having concluded that the sentencing band approach is more appropriate for both s 50T enhanced sentences and sentences for s 50Y offences, we turn to the substantive content of the applicable framework. For this purpose, we adopt a three-fold classification of "low", "moderate" and "high", with each classification being tied to the *severity* of the fresh offence in question (in the case of s 50T) or the serious breach of the MAC concerned (in the case of s 50Y). The appropriate sentence under each of these three sentencing bands would be, respectively, up to one-third, between one-third and two-thirds, and between two-thirds and the full remaining duration of the remission order at the time of the relevant offence. This helps to ensure that the full spectrum of sentences is used (see *Vasentha d/o Joseph v Public Prosecutor* [2015] 5 SLR 122 at [45] and [46]). For ease of reference, we set out these three sentencing bands below:

Band	Degree of severity	Sentencing range (based on the remaining duration of the remission order)
1	Low	Up to 1/3
2	Moderate	1/3 to 2/3
3	High	2/3 to the full remaining duration

48 Having regard to the statutory factors set out in ss 50T(3)(*a*)–50T(3)(*d*) and/or ss 50Y(2)(*a*)–50Y(2)(*d*) of the Prisons Act (as the case may be), the sentencing court may further identify the appropriate degree of severity within a particular sentencing band; for instance, the low end, mid-point or upper end of Bands 1, 2 or 3. The court should endeavour to arrive at a fraction (such as 1/4) or percentage (such as 25%) of the remaining duration of the remission order at the time of the relevant offence in this way. Such an approach appears to us reasonably workable and lends itself to being applied with some degree of consistency.

49 We reiterate here a point that we made earlier at [29] above in relation to s 50T specifically, namely, the sentencing court has a discretion *whether* to impose an enhanced sentence at all for a fresh offence. The factors relevant to the exercise of this discretion are set out in s 50T(3), which reads as follows:

In deciding *whether to impose any enhanced sentence* under subsection (1) or (2) with respect to any offence, *and if so the length of the enhanced sentence*, the court shall consider —

(*a*) the gravity of the offence;

(*b*) whether the offence is of a similar nature to the offence for which the person under a remission order was originally sentenced;

(*c*) the length of time for which the person did not commit any offence after being released under that remission order; and

(*d*) all other relevant circumstances.

[emphasis added]

50 A plain reading of s 50T(3) indicates that the court must decide: (a) *whether* to impose an enhanced sentence for a fresh offence; and (b) if so, *how long* the enhanced sentence should be. Two divergent approaches to how this determination should be made were canvassed before us:

(a) The first is to apply a two-step process in which the court first ascertains whether it should impose an enhanced sentence for the fresh offence in question; if it considers that it should do so, it then determines how long the enhanced sentence should be. This approach was taken in *Mohamad Dom* at [20(a)] and [71]. While it is to be expected that the threshold under the first step will readily be crossed in respect of the great majority of offenders who fall foul of s 50T(1), the Prosecution points out that retaining this first step might sieve out cases where, for instance, an offender breaches a basic condition of his remission order by committing a strict liability offence.

(b) The second approach is to adopt an all-encompassing inquiry that considers in tandem both *whether* to impose an enhanced sentence for the fresh offence in question, and if so, *how to calibrate* it. Mr Zhuang supports this approach mainly because both steps of the inquiry require consideration of the factors listed in ss 50T(3)(*a*)–50T(3)(*d*). The Prosecution broadly agrees with Mr Zhuang, but, in any event, considers that there is unlikely to be any substantive difference between the two approaches.

51 While we acknowledge that the approach in *Mohamad Dom* has some advantage in keeping the inquiries distinct, we think that all that is needed is for the sentencing court to pause and consider whether it is *necessary* to impose an enhanced sentence. So long as the fresh offence committed is more than *de minimis*, that would suffice in general to justify the imposition of an enhanced sentence. It follows that the questions of *whether* an enhanced sentence should be imposed, and if so, *how long* that sentence should be, may be assessed in the round. As Mr Zhuang pointed out, the same factors are to be considered at both stages and we see no need for the same analysis to be undertaken twice. This was also recognised in *Mohamad Dom* at [55].

52 For completeness, we reiterate as well our earlier observation (at [31] above) that in contrast to s 50T, it is mandatory to impose an imprisonment sentence in respect of a s 50Y offence. As such, the specific point raised at [50] above does not arise in relation to s 50Y.

The sentencing factors under ss 50T(3) and 50Y(2)

53 We turn to consider the sentencing factors under ss 50T(3) and 50Y(2), which will be relevant to the sentencing court's determination of the sentencing band that applies in a given case. In our judgment, these factors can, in broad terms, be classified into three categories: (a) factors going towards the *gravity of the offence* committed by the offender while on remission (which will be a

fresh offence in the case of s 50T, and a serious breach of a MAC in the case of s 50Y); (b) factors going towards *the offender's rehabilitative prospects*; and (c) *all other relevant circumstances*. Without setting down a strict rule, we observe that the first two categories of factors are likely to be the focus of the sentencing court in most cases.

The gravity of the fresh or s 50Y offence committed by the offender

54 We begin by considering the *gravity of the fresh or s 50Y offence* committed by the offender while on remission. The gravity of that offence can be seen as a proxy indicator of the harm that has been caused by the offender's failure to realise the promise of rehabilitation and reintegration, which, after all, would have been the primary reasons for the remission order granted to him. Had the offender not been released early, the fresh or s 50Y offence in question would not have been committed. Thus, the more serious that offence, the graver the harm flowing from the offender's breach of his remission order. The sentencing position flowing from this is intuitive: the more severe the fresh or s 50Y offence committed by the offender and the greater the harm caused, the greater should be the extent of the rescindment of the remission order. In our judgment, the gravity of the fresh or s 50Y offence committed by the offender will ordinarily be a significant factor in determining the appropriate sentencing band. While the sentencing court ought not to ignore the other statutory factors, it should not downplay the significance of this factor in calibrating the sentence for that offence.

55 Specific to s 50T, the gravity of the fresh offence committed by the offender may be gleaned from, amongst other things, the underlying sentence imposed for that offence. At the same time, the underlying sentence should, in our judgment, also be regarded as a *significant limiting factor* in relation to any enhanced sentence that may be imposed under s 50T. Consequently, any enhanced sentence imposed should ordinarily *not exceed* the underlying sentence imposed for the fresh offence. This follows from the premise that although the length of the enhanced sentence is tied to the remaining duration of the remission order pertaining to the original offence (as determined at the time of the fresh offence), the court must be cognisant of the fact that it is ultimately punishing the offender for the *fresh* offence, and not the *original* offence. It seems perverse if an offender who commits a relatively minor fresh offence after being released from prison on remission may nonetheless potentially face an enhanced sentence that exceeds the underlying sentence imposed for that offence. However, this is not a strict rule of limitation. It remains open to the sentencing court to impose an enhanced sentence exceeding the underlying sentence imposed for the fresh offence if the totality of the circumstances indicates that this is appropriate. Nevertheless, we do not expect this to be the case save in exceptional situations.

56 As for the gravity of a serious breach of a MAC under s 50Y of the Prisons Act, both Mr Zhuang and the Prosecution agree that the type of breach (meaning the type of MAC breached) is relevant to the assessment of gravity. However, Mr Zhuang submits that *only* the type of breach is relevant. In contrast, the Prosecution submits that considerations ancillary to the type of breach – such as the duration of the breach, the consequences of the breach and the motivations behind the breach – are also relevant. On this, we agree with the Prosecution that the word "gravity" in s 50Y(2)(*a*) extends beyond the *type* of breach. It is also not practical to assess the gravity of a serious breach of a MAC purely by reference to its type. We further agree with the Prosecution that considerations ancillary to the type of breach, if already taken into account under s 50Y(2)(*a*), should not be factored in again under s 50Y(2)(*c*). Finally, we observe that since s 50Y offences consist of serious breaches of MACs, gravity in this context would have to be considered relative to the entire spectrum of breaches of MACs. This is because the harm occasioned by breaches of MACs in and of themselves, being breaches of conditions that go towards *monitoring* an offender, would ordinarily not be significant.

The offender's rehabilitative prospects

The offender's rehabilitative prospects

57 We next consider *the offender's rehabilitative prospects*. The focus here is on the extent to which the offender's fresh offending behaviour can be said to have undermined the goals enshrined in s 50E of the Prisons Act, which we referred to earlier (see [32] above). This consideration finds expression in the factors of the *similarity* and *timing* of the fresh offence under s 50T(3)(*b*) and s 50T(3)(*c*) respectively, as well as the factors of the *timing* of the s 50Y offence and the offender's *lack of commitment to rehabilitation and reintegration* under s 50Y(2)(*b*) and s 50Y(2)(*c*) respectively. These statutory factors are not exhaustive, and the sentencing court must consider the totality of the circumstances in assessing the offender's rehabilitative prospects.

(1) The timing of the fresh or s 50Y offence committed by the offender

58 Under ss 50T(3)(*c*) and 50Y(2)(*b*) of the Prisons Act, regard should be had to the window between the offender's release from prison and his commission of a fresh or s 50Y offence. It was suggested to us that the smaller that window, the greater should be the extent of the rescindment of the remission order. As Mr Zhuang put it, an offender who commits an offence or a serious breach of a MAC just fresh out of prison on remission would show a greater disregard for the conditions of his remission order, and perhaps the law in general. We agree with this. For completeness, we note the court's observation in *Mohamad Dom* at [37] that the factor of timing in s 50T(3)(*c*) "is already in-built into the CRS, in that the earlier the person re-offends after [his] release from prison, the length of time available to be imposed will be longer". The same would apply to the timing of a serious breach of a MAC under s 50Y(2)(*b*). While this observation in *Mohamad Dom* is notionally true, it pertains to the *maximum sentence* that can be imposed under s 50T or s 50Y (as the case may be), which is conceptually distinct from the determination of the *severity* of the fresh or s 50Y offence committed by the offender for the purpose of identifying the appropriate sentence within a particular sentencing band. The more relevant point in the latter context is the inference to be drawn as to the offender's rehabilitative prospects from the fact that he committed a fresh or s 50Y offence sooner rather than later after his release on remission.

(2) Similarity between the fresh offence and the original offence

59 Under s 50T(3)(*b*), it is relevant to examine whether the fresh offence committed by the offender while on remission is of a similar nature to the original offence. Mr Zhuang submits that "[c]ommitting the exact same offence would attract the most culpability; while committing a completely unrelated offence would [attract] the least". The Prosecution too takes the view that "the similarity of the offences has an inverse relationship with the extent that the ex-prisoner has been rehabilitated". In our judgment, the similarity between the fresh offence committed and the original offence may bear on the offender's need for specific deterrence, and for that reason, it may result in a more onerous enhanced sentence for the fresh offence. However, the converse does not follow. Thus, the fact that the fresh offence committed is unrelated to the original offence does not necessarily mean that a more lenient approach in determining how long an enhanced sentence to impose is warranted. This is because the CRS is designed to deter offenders from committing crimes *in general*, and not just crimes that are the same as or similar to the crimes in respect of which remission was ordered. If the fresh offence committed is dissimilar to the original offence, the relevant inquiry will turn on the gravity of the former, which is considered elsewhere in the sentencing framework.

60 As to the assessment of similarity, we agree with the Prosecution that offences are similar if they share common legal elements or commonalities "in the broad sense understood by laymen": see *Leong Mun Kwai v Public Prosecutor* [1996] 1 SLR(R) 719 at [18].

61 We make a further observation in relation to the consideration of similarity under s 50T(3)(*b*) where there are *multiple* original offences. In *Mohamad Dom*, the fresh offence committed was similar to only *one* of the three original offences in respect of which remission was ordered. The court took the view that the assessment of the extent to which the remission period should be rescinded in that situation should not take into account the portion of the remission period attributable to the original offences that were dissimilar and unconnected to the fresh offence (at [78]–[79]).

62 Mr Zhuang disagrees with this approach, and submits that the court need not decide whether to exclude the portion of the suspended sentence attributable to an original offence that is dissimilar to the fresh offence committed. We agree with Mr Zhuang. Where multiple original offences are concerned, the sentencing court should consider the remaining duration of the remission period with reference to *all* the original offences, regardless of their similarity to the fresh offence committed. This is for the following reasons:

(a) First, the approach taken in *Mohamad Dom* would result in an untenable outcome where the fresh offence committed is dissimilar and unconnected to *all* of the original offences. In such a situation, the sentencing court would not be able to take any portion of the remission period into account. Furthermore, this approach would lead to arbitrary outcomes in cases where the sentences for the original offences might have been calibrated downwards due to the totality principle or where such sentences had been ordered to run concurrently.

(b) Second, this approach does not cohere with the rationale of the CRS, which, as we have already noted, is designed to deter offenders from committing offences *in general*, and not just offences that are the same as or similar to the original offences. Just as a remission order is made in respect of *all* of an offender's original offences, so should any rescindment of the order be considered in relation to the entirety of the remission period. Any other approach would create a perverse incentive for offenders to commit fresh offence(s) that are *dissimilar* to the original offence(s).

(3) The offender's lack of commitment to rehabilitation and reintegration

63 For reasons that are not clear to us, the offender's lack of commitment to rehabilitation and reintegration is expressly provided for as a relevant consideration in s 50Y(2)(*c*) but not in s 50T(3). Nevertheless, this does not exclude its consideration in the context of s 50T as the court is statutorily required to have regard to "all other relevant circumstances" under s 50T(3)(*d*). Self-evidently, the greater the evidence of the offender's lack of commitment to rehabilitation and reintegration, the greater will be the extent of the rescindment of the remission period. Whether the commission of a fresh or s 50Y offence goes towards establishing a lack of commitment to rehabilitation and reintegration on the offender's part is a matter for the sentencing court to decide, taking into account all the relevant circumstances of the case. However, it is important to ensure that the identical consideration is not applied multiple times to the prejudice of the offender.

Other relevant circumstances

64 Finally, the court is required to have regard to "*all other relevant circumstances*" [emphasis added]. This is embodied in ss 50T(3)(*d*) and 50Y(2)(*d*) of the Prisons Act, which are residual catch-all provisions meant to ensure that the court's sentencing discretion is not fettered.

65 We turn first to s 50Y, where the position is more straightforward. As s 50Y(1) creates a distinct offence, the specific aggravating or mitigating factors pertinent to the case at hand can be considered without any concerns of double-counting. This would typically include the offender's guilty

plea, although, as a practical matter, this has little weight where the offender has been caught "red-handed" (see *Sim Gek Yong v Public Prosecutor* [1995] 1 SLR(R) 185 at [6]). Given that s 50Y offences often concern breaches of monitoring conditions, it seems difficult to envisage a situation where an offender would not be caught "red-handed".

66 The position under s 50T is more difficult. As we highlighted earlier (at [28] above), s 50T does not create a distinct offence, but only permits the court to impose an enhanced sentence in addition to the underlying sentence imposed for a fresh offence. To that extent, the relevant aggravating or mitigating factors for the purposes of s 50T would necessarily relate to the *fresh offence*, and there is a real risk of *double-counting* if aggravating or mitigating circumstances that were considered in calibrating the underlying sentence for the fresh offence are considered again in determining the enhanced sentence for that offence.

67 In our judgment, while it might theoretically be possible to see the aggravating or mitigating factors to be considered under s 50T as being relevant to a different part of the sentencing analysis (namely, when deciding on the enhanced sentence, as opposed to the underlying sentence, for a fresh offence), this would give rise to unnecessary and excessive complexity for sentencing courts. The better approach is to recognise that once the relevant aggravating or mitigating factors have been considered in arriving at the underlying sentence for a fresh offence, that sentence will itself have a significant influence on the extent of any enhancement in sentence that may be imposed under s 50T (see [55] above). These factors should not then be reconsidered separately in determining any enhanced sentence under s 50T.

Cases involving multiple fresh offences and s 50Y offences

The outer limit to the cumulative sentence under ss 50T and 50Y

68 Sections 50T and 50Y of the Prisons Act provide that there are certain limits to the sentences that may be imposed thereunder. The relevant provisions of s 50T read as follows:

> **50T.**—(1) When a person commits an offence in breach of the basic condition of his remission order made under Division 2 or 3, the court may, in addition to imposing any sentence on the person for that offence, impose an enhanced sentence for that offence as follows:
>
> > (*a*) imprisonment for a term not exceeding the remaining duration of the remission order, as determined based on the date of the commission of the offence …
> >
> > …
>
> (2) If a person commits 2 or more offences in breach of the basic condition of his remission order made under Division 2 or 3 —
>
> > …
> >
> > (*b*) the aggregate length of all the enhanced sentences imposed under subsection (1) shall not exceed the remaining duration of the remission order, as determined based on the date of the earliest offence committed.
>
> …
>
> (5) Notwithstanding any provision in any written law, a term of imprisonment imposed on any

person as an enhanced sentence under this section shall run consecutively to all other terms of imprisonment imposed on him.

…

69 The relevant provisions of s 50Y read as follows:

50Y.—(1) A person who commits a serious breach of a mandatory aftercare condition of his remission order shall be guilty of an offence and shall be liable on conviction to —

(*a*) imprisonment for a term not exceeding the remaining duration of the remission order, as determined based on the date of the offence …

…

(3) If a person commits 2 or more offences under subsection (1) —

…

(*b*) the aggregate length of all the sentences imposed under subsection (1) shall not exceed the remaining duration of the remission order, as determined based on the date of commission of the first offence.

...

(5) Notwithstanding any provision in any written law, a term of imprisonment imposed under this section on any person shall run consecutively to all other terms of imprisonment imposed on him.

…

70 It is clear, from the provisions cited above, that any enhanced sentence imposed under s 50T, or the aggregate of any such sentences, must not exceed the remaining duration of the remission order at the time of the fresh offence or (if multiple fresh offences are involved) the earliest fresh offence committed by the offender (see ss 50T(1)(*a*) and 50T(2)(*b*)). Similarly, any sentence imposed for a s 50Y offence, or the aggregate of any sentences imposed for such offences, must not exceed the remaining duration of the remission order at the time of the s 50Y offence or (if multiple s 50Y offences are involved) the earliest s 50Y offence committed by the offender (see ss 50Y(1)(*a*) and 50Y(3)(*b*)). The question that arises is whether the aggregate of the sentence(s) imposed under s 50T *and* the sentence(s) imposed under s 50Y may exceed the remaining duration of the remission order at the time of the offender's earliest offence (as defined at [39(c)] above). In other words, is there an outer limit to the cumulative sentence that may be imposed under ss 50T and 50Y?

71 This issue arose in *Mani*, *Norfarah* and *Amanshah*, with divergent positions taken by the courts below. In *Mani* and *Norfarah*, the courts declined to impose a cumulative sentence exceeding the remaining duration of the remission order at the time of the offender's earliest offence (see [39(c)] above). This was explained by the court in *Norfarah* at [61] (and applied in *Mani* at [47]) as follows:

In my view, *although there is no specific provision in the* [*Prisons*] *Act directly prohibiting such a sentencing result, the spirit of the provisions in section 50T(2)(b) and section 50Y(3)(b) of the* [*Prisons*] *Act would be violated*. As I see it, there should not be any punishment beyond the remaining period of the suspended sentence regardless of the number of breaches, either of the

> basic condition or of the mandatory aftercare conditions. The structure of the CRS and [the] MAS, in replacing the previous unconditional remission, were not intended to subject the person, who has been granted conditional remission, to additional punishment longer than what the court had previously decided as sentences for the remission offences. The CRS and [the] MAS were meant to help the prisoners rehabilitate and reintegrate into society and not lead to an extension of their sentences previously imposed. [emphasis added]

Thus, the courts in *Mani* and *Norfarah* calibrated the s 50T enhanced sentences downwards so that the cumulative sentence under ss 50T and 50Y would not be longer than the remaining duration of the remission order at the time of the offender's earliest offence.

72 In contrast, in *Amanshah*, the court imposed in respect of Amanshah's fresh offences an aggregate enhanced sentence under s 50T of 861 days' imprisonment, which was the remaining duration of Amanshah's remission order at the time of his earliest offence (that being the fresh offence of theft in a dwelling). In addition, pursuant to s 50Y(1)(*a*), the court imposed a sentence of 275 days' imprisonment for Amanshah's s 50Y offence. The cumulative sentence under ss 50T and 50Y of 1,136 days' imprisonment therefore exceeded the remaining duration of Amanshah's remission order at the time of his earliest offence by 275 days. The question of whether the cumulative sentence under ss 50T and 50Y could exceed the remaining duration of an offender's remission order at the time of his earliest offence was not expressly addressed by the court.

73 In his written submissions, Mr Zhuang submits that the answer to this question turns on the nature of the punishment imposed under ss 50T and 50Y and, specifically, on whether such punishment is more akin to a sentence meted out by the court in the exercise of its sentencing power, or more akin to a revocation or suspension of the remaining remission period at the time of the offender's earliest offence. Mr Zhuang submits that it is the former, given the extent of sentencing discretion conferred on the court by ss 50T and 50Y as well as the fact that both s 50T(5) and s 50Y(5) refer to "a term of imprisonment". On this view, the court may impose a cumulative sentence under ss 50T and 50Y that exceeds the remaining duration of the remission order at the time of the offender's earliest offence, as long as any one component sentence under these two provisions does not exceed that duration.

74 The Prosecution takes much the same position in its written submissions. It contends that since Parliament has not laid down a specific limit on the cumulative sentence that may be imposed under ss 50T and 50Y, the court would be unnecessarily constraining its discretion by reading in a limit pegged to the remaining duration of the remission order at the time of the offender's earliest offence. It further contends that the mischief targeted by s 50T is different from that targeted by s 50Y, in that s 50T is directed at offenders reoffending while on remission, whereas s 50Y is directed at the commission of serious breaches of MACs. There may well be situations where an offender commits offences which trigger the application of both s 50T and s 50Y, and warrant the imposition of a cumulative sentence exceeding the remaining duration of the remission order at the time of the offender's earliest offence.

75 Respectfully, we disagree with both Mr Zhuang and the Prosecution. In our judgment, the cumulative sentence imposed under ss 50T and 50Y of the Prisons Act *must not* exceed the remaining duration of the remission order at the time of the offender's earliest offence. This is because, in granting an offender remission, the State is releasing him from a portion of the term of incarceration to which he has been sentenced, and this is done as a reward for his "good conduct and behaviour in prison" (see the 2014 Parliamentary Debates). However, should he slip back into criminal conduct, the incentive previously granted stands to be "forfeited" by an enhanced sentence under s 50T and/or a sentence under s 50Y. On this understanding of ss 50T and 50Y, an offender cannot forfeit anything

more than the unspent portion of the reward he has received, which is the remaining duration of his remission order at the time of his earliest offence. It would be a perverse result if, as a result of committing a fresh offence and/or a serious breach of a MAC while on remission, an offender could end up serving, in the aggregate, a sentence *longer* than the entirety of the sentence(s) imposed for his original offence(s). As the court observed in *Mohamad Dom* at [20(b)] (cited in *Norfarah* at [32], which was in turn referred to in *Mani* at [22(c)]), in determining the appropriate length of an enhanced sentence under s 50T, the court is deciding "how much of the remaining suspended sentence ought to be served in prison" [emphasis in original omitted]. The combined length of the sentences imposed under ss 50T and 50Y therefore cannot exceed the remaining duration of the remission order at the time of the offender's earliest offence.

76 It follows that the remaining duration of the remission order at the time of the offender's earliest offence operates as an outer limit to the cumulative sentence that may be imposed under ss 50T and 50Y. This has certain implications on the notion of proportionality and the application of the totality principle in the context of ss 50T and 50Y, which we shall come to at [80]–[86] below.

The sentencing approach where there are multiple fresh offences and s 50Y offences

77 We next outline the approach that the sentencing court should take when sentencing for multiple fresh offences and s 50Y offences. We deal first with the situation where *none* of the offences concerned are s 50Y offences and the sentencing court is faced purely with enhanced sentences under s 50T for multiple fresh offences. We have noticed a tendency by the courts below and also by the Prosecution to consider, first, the enhanced sentence to impose (if any) in respect of each fresh offence and then to reduce each individual enhanced sentence proportionally. In our judgment, the sentencing court need not always analyse separately the appropriate enhanced sentence to impose (if any) for each and every fresh offence.

78 In our judgment, as a practical matter, and given our decision at [75]–[76] above that there is an outer limit to the cumulative sentence that may be imposed under ss 50T and 50Y, the sentencing court can simplify its task by determining the appropriate enhanced sentence to impose (if any) in order of the most serious to the least serious of the fresh offences. This way, once the maximum duration of the enhanced sentence(s) that may be imposed has been reached (that is to say, once the whole of the remaining duration of the remission order at the time of the offender's earliest offence has been rescinded), there would be no need for the sentencing court to engage in a separate analysis of the appropriate enhanced sentence to impose (if any) for each of the other fresh offences. However, the sentencing court should then make it clear in either its sentencing remarks or its judgment that it did not impose any enhanced sentence for the other fresh offences because the maximum duration of the enhanced sentence(s) that could be imposed had already been reached. We think this would streamline the process in cases involving multiple individual enhanced sentences under s 50T. We are also cognisant of the need for the sentencing framework to be workably simple so that it can yield broadly consistent outcomes.

79 Turning to cases involving *both* enhanced sentences under s 50T for fresh offences *and* sentences for s 50Y offences, the situation is slightly more complicated because a sentence of imprisonment is *mandatory* for a s 50Y offence (see [31] and [52] above). In our judgment, the sentencing court should begin by determining the imprisonment sentences for the s 50Y offences, given that imprisonment is *mandatory* for a s 50Y offence (see s 50Y(1) of the Prisons Act). It should then consider in the round whether to impose any enhanced sentence under s 50T for the fresh offences, and if so, how long the enhanced sentence(s) should be. This should be done in much the same way as that outlined at [78] above, that is to say, from the most serious to the least serious of the fresh offences. In order not to exceed the outer limit to the cumulative sentence that may be

imposed under ss 50T and 50Y, the sentencing court may have to make adjustments to the individual sentences (whether imposed under s 50T or under s 50Y) and/or may decide not to impose any enhanced sentence for one or more of the fresh offences. As we have just highlighted (likewise at [78] above), the sentencing court's reasons for proceeding in a particular way should be clearly set out in either its sentencing remarks or its judgment so that they are easily understood.

The totality principle in the context of ss 50T and 50Y

80 The totality principle is a well-established principle of sentencing which requires the court to take a "last look" at all the facts and circumstances of the case at hand to assess whether the sentence reached at the end of the sentencing process looks wrong. If it does, the court may adjust the aggregate sentence by "re-assessing which of the appropriate sentences ought to run consecutively" and/or "re-calibrating the individual sentences so as to arrive at an appropriate aggregate sentence" (see *Mohamed Shouffee bin Adam v Public Prosecutor* [2014] 2 SLR 998 ("*Mohamed Shouffee*") at [47], [58] and [59]). The underlying rationale of the totality principle is the need to "ensure proportionality in a global sense" (see *Mohamed Shouffee* at [49], citing Tan Yock Lin, *Criminal Procedure* vol 3 (LexisNexis, 2010) at para 4101.1).

81 The totality principle comprises two limbs:

(a) The first limb examines whether the aggregate sentence is substantially above the normal level of sentences for the most serious of the individual offences committed (see *Mohamed Shouffee* at [54]).

(b) The second limb considers whether the effect of the aggregate sentence on the offender is "crushing and not in keeping with his past record and his future prospects" (see *Mohamed Shouffee* at [57]).

82 In respect of enhanced sentences under s 50T and sentences under s 50Y, both the Prosecution and Mr Zhuang agree that the totality principle *should apply* as a final step at the end of the sentencing process, but they differ as to *how* it should apply. On the one hand, the Prosecution submits that the first limb of the totality principle should apply to all the sentences *except* the enhanced sentence(s) imposed under s 50T, while the second limb of the totality principle should apply to all the sentences, *including* the enhanced sentence(s) imposed under s 50T. On the other hand, Mr Zhuang submits that the court should have regard to *all* the sentences, including the enhanced sentence(s) imposed under s 50T, when applying the totality principle.

83 While we accept the Prosecution's and Mr Zhuang's submissions that the totality principle should apply to both s 50T enhanced sentences and sentences under s 50Y, we adopt a slightly different approach as to *how* it should apply. In our judgment, in the light of the sentencing framework we have set out above, the first limb of the totality principle has a limited, if any, role to play in the sentencing process under s 50T and s 50Y. This is because the legislative regime has, built within it, safeguards and constraints which embed the notion of proportionality into the sentencing framework, as we explain below.

84 First, under the framework set out in *Mohamed Shouffee*, the court is not constrained by an outer limit to the sentence that may be imposed in the same way that it is in the context of ss 50T and 50Y. Specifically, as we held at [75]–[76] above, the cumulative sentence under these two provisions must not exceed the remaining duration of the remission order at the time of the offender's earliest offence. This becomes a very significant controlling factor for proportionality. This limiting mechanism, which is inherent within the statutory framework, effectively minimises any risk of the

cumulative sentence under ss 50T and 50Y being disproportionate as a result of the requirement under ss 50T(5) and 50Y(5) that any term of imprisonment imposed under s 50T or s 50Y (as the case may be) must run consecutively to all other terms of imprisonment. The effect of the limitation is that under no circumstances will an offender end up serving more than the aggregate sentence imposed for his original offences(s), and any considerations of proportionality will already have been factored in there.

85 Second, the principle of proportionality is also enshrined in the statutory factors set out in ss 50T(3) and 50Y(2). As we noted at [55] above in relation to s 50T, the gravity of the fresh offence committed by the offender operates as a significant limiting factor on any enhanced sentence that may be imposed under this provision, in that any enhanced sentence imposed should ordinarily not exceed the underlying sentence for the fresh offence. Given that a s 50T enhanced sentence is dependent on the gravity of the fresh offence committed by the offender, the proportionality principle is already taken into account, in that the less serious the fresh offence, the lower the enhanced sentence will generally be. Similarly, under s 50Y(2)(*a*), the sentencing court is required to consider the gravity of the offender's serious breach of a MAC in determining how long an imprisonment term to impose for such breach. Furthermore, because the length of both the enhanced sentence imposed under s 50T and the sentence imposed for a s 50Y offence is constrained by the *remaining* duration of the remission order at the time of the fresh or s 50Y offence committed by the offender, the longer the offender remains crime-free, the shorter the enhanced sentence under s 50T or the sentence under s 50Y (as the case may be) will be.

86 However, we think the second limb of the totality principle will continue to play some role in sentencing in this context. As in the usual case, this limb will operate at the last stage of the sentencing process when the sentencing court takes a "last look" at all the facts and circumstances of the case at hand to determine whether the aggregate sentence is crushing and not in keeping with the offender's past record and future prospects. In this regard, the sentencing court should take into account the underlying sentence(s) imposed for the fresh offence(s), any enhanced sentence(s) imposed under s 50T for those offences and any sentence(s) imposed under s 50Y. There should be good and cogent reasons for any adjustments made at this stage. We also reiterate the observations made in *Mohamed Shouffee* at [66] and [81(i)] that if the sentencing court makes any adjustment to the aggregate sentence on the basis of the totality principle, it "must be diligent in articulating [its] reasons" for doing so.

Summary of the sentencing framework

87 To summarise, the sentencing framework for enhanced sentences under s 50T and sentences under s 50Y of the Prisons Act is as follows:

(a) First, the court should consider the gravity of the fresh or s 50Y offence committed by the offender while on remission, the offender's rehabilitative prospects and "all other relevant circumstances":

(i) The gravity of the fresh or s 50Y offence committed by the offender: This will ordinarily be a significant factor in the sentencing court's consideration. In general, the more severe the fresh or s 50Y offence committed by the offender and the greater the harm caused, the longer the enhanced sentence under s 50T or the sentence under s 50Y (as the case may be) will be. In relation to enhanced sentences under s 50T specifically, the underlying sentence imposed for the fresh offence committed by the offender will be a *significant limiting factor* in relation to any enhanced sentence that may be imposed.

(ii) The offender's rehabilitative prospects: In assessing the offender's rehabilitative prospects, the court should consider the totality of the circumstances, including the statutory factors under ss 50T(3) and 50Y(2) of similarity between the original offence and the fresh offence, the timing of the fresh or s 50Y offence relative to the date of the offender's release from prison on remission and any evidence of a lack of commitment to rehabilitation and reintegration on the offender's part.

(iii) "[A]ll other relevant circumstances": This is a residual catch-all category which informs the court's overall sentencing analysis, although care should be taken to avoid double-counting any factors.

(b) Next, based on the above factors, the court should determine which sentencing band the case at hand falls under. There are three sentencing bands:

(i) Band 1: This comprises cases of low severity, which attract sentences of up to one-third of the remaining duration of the remission order at the time of the relevant offence. In relation to s 50T, where the fresh offence committed by the offender is relatively not serious, and in the light of all the facts and circumstances of the case, the court may decide that no enhanced sentence is warranted.

(ii) Band 2: This comprises cases of moderate severity, which attract sentences of between one-third and two-thirds of the remaining duration of the remission order at the time of the relevant offence.

(iii) Band 3: This comprises cases of high severity, which attract sentences of between two-thirds and the full remaining duration of the remission order at the time of the relevant offence.

(c) Where multiple fresh offences and s 50Y offences are involved, the court should take note of the following:

(i) The cumulative sentence imposed under ss 50T and 50Y must not exceed the remaining duration of the remission order at the time of the offender's earliest offence.

(ii) Where the court is concerned purely with enhanced sentences under s 50T for fresh offences, it should, as a practical matter, determine the appropriate enhanced sentence to impose (if any) in order of the most serious to the least serious of the fresh offences, stopping once the whole of the remaining duration of the remission order at the time of the offender's earliest offence has been rescinded. Where both enhanced sentences under s 50T for fresh offences and sentences for s 50Y offences are involved, the court should determine the imprisonment sentences for the s 50Y offences first before considering in the round (and likewise in order of the most serious to the least serious of the fresh offences) whether to impose any enhanced sentence under s 50T for the fresh offences, and if so, how long the enhanced sentence(s) should be. In order not to exceed the remaining duration of the offender's remission order at the time of his earliest offence (which is the outer limit to the cumulative sentence that may be imposed under ss 50T and 50Y), the court may have to make adjustments to the individual sentences (whether imposed under s 50T or under s 50Y) and/or may decide not to impose any enhanced sentence for one or more of the fresh offences. The court should ensure that its reasons for proceeding in a particular way are clearly set out in either its sentencing remarks or its judgment.

(d) Finally, the court should take a "last look" at all the facts and circumstances of the case at hand to determine whether the aggregate sentence is crushing and not in keeping with the offender's past record and future prospects. If any adjustments are made at this stage, there should be good and cogent reasons for doing so, and these should be clearly articulated by the court.

88 We now turn to apply the sentencing framework to the four appeals before us.

Abdul's appeal in MA 9438

The sentences meted out by the District Court

89 To recapitulate, Abdul committed a fresh FPUT offence on 10 February 2020, slightly less than five months after his release from prison on 14 September 2019. Approximately six weeks later, he committed a s 50Y offence by failing to remain indoors at SHH for a total of 32 hours and 41 minutes between 28 March 2020 and 30 March 2020. In the District Court, Abdul pleaded guilty to these two offences and consented to two other FPUT charges being taken into consideration for the purposes of sentencing. He was sentenced as follows:

S/N	Offence	Sentence
1	FPUT	Nine months' imprisonment (consecutive)
		Enhanced sentence of 285 days' imprisonment (out of a maximum of 518 days, being the remaining duration of the remission order as at 10 February 2020) (consecutive)
2	Section 50Y offence	22 days' imprisonment (out of a maximum of 469 days, being the remaining duration of the remission order as at 30 March 2020) (consecutive)
Aggregate sentence		**Nine months and 22 days' imprisonment, with an enhancement of 285 days' imprisonment**

The parties' cases

90 On appeal, Abdul submits that his cumulative sentence under ss 50T and 50Y of 307 days' imprisonment is manifestly excessive. He contends that he was absent from SHH for only slightly over 32 hours and did not have any intention of escaping or evading apprehension. He was not put on the wanted list, and was promptly arrested upon his return to SHH. In rebuttal, the Prosecution submits that the sentences meted out by the District Court should stand as they are not manifestly excessive or wrong.

Our decision

91 We begin with the sentence for Abdul's s 50Y offence, and make the following observations:

(a) The gravity of Abdul's serious breach of his MAC in failing to remain indoors at SHH between 28 March 2020 and 30 March 2020 was low, as evidenced by its relatively short duration of 32 hours and 41 minutes.

(b) Abdul still manifests reasonable prospects of rehabilitation. This can be seen from the fact that approximately six months elapsed between the commencement of his remission order and his serious breach of a MAC. Furthermore, his voluntary surrender and gainful employment at the material time demonstrate a commitment to rehabilitation.

We therefore place Abdul's s 50Y offence at the lower end of Band 1. Accordingly, we agree with the District Court that a sentence of 22 days' imprisonment, which is approximately 5% of the remaining remission period of 469 days as at 30 March 2020, is appropriate.

92 We next consider the enhanced sentence imposed on Abdul under s 50T for his fresh FPUT offence. In our judgment, the District Court did not consider the *significant limiting factor* of the underlying nine-month imprisonment sentence imposed for that offence. As a result, the enhanced sentence of 285 days' imprisonment in fact exceeded the underlying sentence for that offence. Applying the sentencing framework set out above, we analyse the appropriate enhanced sentence to impose as follows:

(a) Abdul's fresh FPUT offence was of moderate gravity. The underlying sentence imposed in respect of this offence was nine months' imprisonment, and Abdul did not appeal against that sentence.

(b) As noted at [91(b)] above, the circumstances suggest that Abdul still has reasonable rehabilitative prospects. Although there is identity or similarity between Abdul's fresh FPUT offence and his original offences (which consisted of two FPUT offences and one drug consumption offence), there was a period of approximately five months between the commencement of his remission order and the commission of his fresh FPUT offence. Viewing these two factors in the round, they did not, in our view, necessarily indicate a rapid slide back into criminal behaviour by Abdul.

93 We therefore assess the severity of Abdul's fresh FPUT offence to be at the lower end of Band 2 of the sentencing framework. We consider an enhancement of 188 days' imprisonment, which is approximately 36% of the remaining remission period of 518 days as at 10 February 2020, to be appropriate. This does not exceed the underlying nine-month imprisonment term imposed for this offence.

94 As ss 50T(5) and 50Y(5) require all the imprisonment sentences imposed under ss 50T and 50Y to run consecutively, Abdul's aggregate sentence is nine months' imprisonment, with an enhancement of 188 days' imprisonment, for the fresh FPUT offence, and 22 days' imprisonment for the s 50Y offence. Taking a last look at all the facts and circumstances of Abdul's case, we are satisfied that this aggregate sentence would not offend any considerations of totality or proportionality. We therefore allow Abdul's appeal to this extent.

Mani's appeal in MA 9778

The sentences meted out by the District Court

95 To recapitulate, Mani pleaded guilty to the following charges:

(a) one LT-2 drug consumption charge pertaining to the consumption of diamorphine;

(b) one FPUT charge; and

(c) one s 50Y charge for breaching his curfew by failing to remain indoors at SHH for a total of 58 hours and 30 minutes between 21 September 2019 and 24 September 2019.

96 Two other FPUT charges and one drug consumption charge pertaining to the consumption of methamphetamine were taken into consideration for the purposes of sentencing. Mani was sentenced as follows:

S/N	Offence	Sentence
1	Consumption of diamorphine (LT-2)	Seven years' imprisonment (consecutive)
		Enhanced sentence of 278 days' imprisonment (out of a maximum of 516 days, being the remaining duration of the remission order as at 1 September 2019), adjusted downwards from 320 days' imprisonment (consecutive)
2	FPUT	Eight months' imprisonment (consecutive)
		Enhanced sentence of 135 days' imprisonment (out of a maximum of 494 days, being the remaining duration of the remission order as at 23 September 2019), adjusted downwards from 166 days' imprisonment (consecutive)
3	Section 50Y offence	100 days' imprisonment (out of a maximum of 494 days, being the remaining duration of the remission order as at 23 September 2019) (consecutive)
Aggregate sentence		**Seven years, eight months and 100 days' imprisonment, with an enhancement of 413 days' imprisonment**

The parties' cases

97 In his appeal, Mani expresses remorse and pleads for leniency. He seeks a "DRC [Drug Rehabilitation Centre] sentence" instead of a custodial term, claiming that a Central Narcotics Bureau ("CNB") officer had offered him a "DRC sentence" and had told him that if he surrendered himself, he would be subject to a DRC order instead of a court charge. He submits that he did not present himself for a urine test on 23 September 2019 because he did not have money to get to the appointment or to obtain a medical certificate to cover his absence. As regards his breach of his curfew in failing to remain indoors at SHH for a total of 58 hours and 30 minutes between 21 September 2019 and 24 September 2019, he claims that he breached his curfew to attend his mother's death anniversary, and that he had informed his MAS officer of the same. He also alleges, on the basis of what he was told by two persons whom he identified by prison number, that other accused persons who had breached the terms of their remission orders and/or their MACs had received lighter sentences, including sentences which had been ordered to run concurrently. He thus contends that all his sentences should run concurrently. Finally, he submits that a reduction of his aggregate sentence is warranted as his family members are getting older, two of his brothers are seriously ill and he himself is also getting more advanced in age.

98 The Prosecution submits that the sentences imposed on Mani are not manifestly excessive, and that his appeal should be dismissed for the following reasons:

(a) There is no truth in Mani's claim that a CNB officer had promised him a "DRC sentence" if he surrendered himself. In any event, there is no duty on the Prosecution's part to give reasons for its decision to charge Mani in court.

(b) There is no basis for suggesting that the sentences imposed on Mani are wrong or excessive because of sentences that might have been meted out to other offenders. Each case must be assessed on its facts.

(c) Mani's alleged reasons for not being present for a urine test on 23 September 2019 were not previously raised. Furthermore, the District Court had taken into account the fact that Mani had absconded from SHH in order to attend his mother's death anniversary and had reduced the sentence for his s 50Y offence accordingly.

(d) Mani's plea for leniency and his personal circumstances are not exceptional.

(e) The District Court was required to order the enhanced sentences under s 50T and the sentence for Mani's s 50Y offence to run consecutively. Furthermore, given Mani's antecedents and the charges taken into consideration, the District Court had every reason to order the underlying sentences for Mani's LT-2 drug consumption offence and FPUT offence to run consecutively as well.

Our decision

99 We make several preliminary observations. First, we are of the view that Mani's allegation about a CNB officer having promised him a "DRC sentence" in exchange for his surrender is inherently lacking in credibility because the first time that CNB officers approached Mani was after his arrest. Accordingly, there could not have been any surrender to speak of. In any case, Mani has not provided any evidence to support this allegation. Second, Mani has not substantiated his claim in relation to the other cases in which accused persons had apparently received lighter sentences for breaching the terms of their remission orders and/or their MACs. In any case, absent a reasoned judgment explaining a particular sentencing decision, bare reference to the outcomes in other cases will seldom be useful. Third, we agree with the Prosecution that Mani's alleged reasons for failing to present himself for a urine test on 23 September 2019 were not raised in the court below nor in mitigation, and so do not stand up to scrutiny. Further, the fact that he had absconded from SHH to attend to a personal matter had already been taken into account by the District Court.

100 We turn now to the individual sentences imposed on Mani, dealing first with the sentence for his s 50Y offence. We observe the following:

(a) Mani's breach of his curfew in failing to remain indoors at SHH between 21 September 2019 and 24 September 2019 was of relatively low gravity as it was for a duration of 58 hours and 30 minutes, which is just over two days.

(b) This is counterbalanced by what we perceive to be a low degree of rehabilitative potential on Mani's part. While Mani's breach of his curfew took place about five and a half months after his release from prison, this has to be considered along with his consistent pattern of offending. In addition to breaching his curfew, Mani committed one fresh FPUT offence and one fresh LT-2 drug consumption offence within the same month (namely, the month of September 2019), which suggests a lack of commitment to rehabilitation and reintegration on his part.

101 Taken in the round, we are of the view that Mani's s 50Y offence should be situated in the

middle of Band 1, which is to say that in relative terms, Mani's s 50Y offence is somewhat more serious than Abdul's. We note that the duration of Mani's breach of his curfew was almost twice as long as that of Abdul's breach. Moreover, given the other fresh drug-related offences that Mani committed within the same month, coupled with the circumstances surrounding their commission, we have, as just indicated at [100(b)] above, less optimism for his rehabilitative prospects than in Abdul's case. We therefore agree with the District Court that an imprisonment term of 100 days, which is approximately 20% of the remaining remission period of 494 days as at 23 September 2019, is appropriate for Mani's s 50Y offence.

102 We turn to the underlying sentences and the s 50T enhanced sentences for the two fresh (non-s 50Y) offences committed by Mani, namely, the LT-2 drug consumption offence and the FPUT offence. In relation to the underlying sentences for these two offences, we observe as follows:

(a) The underlying sentence of seven years' imprisonment for the fresh LT-2 drug consumption offence is the mandatory minimum sentence under s 33A(2)(*a*) of the MDA.

(b) The underlying sentence of eight months' imprisonment for the fresh FPUT offence is, in our judgment, appropriate because: (i) this was Mani's fifth contravention of his compulsory drug supervision order, which required him (among other things) to present himself for regular urine tests, and his fourth conviction for a FPUT offence; (ii) the principle of escalation was correctly applied given that Mani had received six months' imprisonment for each of his previous FPUT convictions; and (iii) this fresh FPUT offence was committed at a time when Mani was on bail after he had been arrested on 3 September 2019 for suspected drug consumption and for having missed earlier urine tests.

103 We turn to the enhanced sentences under s 50T for the above two fresh offences, beginning with the enhanced sentence for the fresh LT-2 drug consumption offence. In this regard, we make the following observations:

(a) This offence is a serious one of moderate to high gravity. In particular, we note that it is a repeat offence warranting the imposition of the mandatory minimum sentence of seven years' imprisonment. Taking this as a proxy indicator of harm, it is evident that this weighs against Mani.

(b) Mani's consistent pattern of offending does not, as we pointed out at [100(b)] and [101] above, present an optimistic picture for his rehabilitative prospects such as might justify a shorter enhanced sentence. We note in particular the identity between his fresh LT-2 drug consumption offence and his original drug consumption offence. Further, Mani admitted that he had been consuming diamorphine since May 2019, just one month after his release from prison on 1 April 2019.

Taken together, we are satisfied that the severity of Mani's fresh LT-2 drug consumption offence reaches the high end of Band 2. We therefore agree with the District Court that an enhanced sentence of 320 days' imprisonment, which is approximately 62% of the remaining remission period of 516 days as at 1 September 2019, is warranted.

104 In relation to the enhanced sentence for Mani's fresh FPUT offence, we observe that:

(a) This offence is of relatively lower gravity than the fresh LT-2 drug consumption offence.

(b) However, for the reasons already outlined above, Mani's rehabilitative prospects are not particularly promising.

We assess the severity of Mani's fresh FPUT offence to be at the lowest end of Band 2. We therefore agree with the District Court that an enhanced sentence of 166 days' imprisonment, which is roughly one-third of the remaining remission period of 494 days as at 23 September 2019, is appropriate.

105 As Mani's case involves both s 50T enhanced sentences for fresh offences and a sentence for a s 50Y offence, the District Court was obliged to adjust the relevant sentences to ensure that the aggregate of the sentences imposed under ss 50T and 50Y would not collectively exceed 516 days, which is the remaining duration of Mani's remission order as at 1 September 2019, the date of his earliest offence (that being the fresh LT-2 drug consumption offence). We accept the downward calibrations made by the District Court to the s 50T enhanced sentences: from 320 days' imprisonment to 278 days' imprisonment (approximately 54% of the remaining remission period of 516 days) in the case of the fresh LT-2 drug consumption offence, and from 166 days' imprisonment to 135 days' imprisonment (approximately 28% of the remaining remission period of 494 days) in the case of the fresh FPUT offence. The aggregate of the sentences imposed on Mani under ss 50T and 50Y is thus 513 days' imprisonment.

106 For completeness, we note that after the hearing of these appeals, Mani tendered further submissions without having first sought or obtained this court's leave to do so. Be that as it may, we considered his further submissions, in which he made four main points: (a) he should be entitled to a one-third discount in sentence on account of his plea of guilt and his voluntary surrender; (b) the underlying sentences for his fresh LT-2 drug consumption offence and fresh FPUT offence should be ordered to run concurrently rather than consecutively; (c) his fresh offences are "primarily related to drug abuse", which, he contends, "has been scientifically proven to be very much a medical issue", and thus, he should be "admitted to DRC to be rehabilitated"; and (d) he was under "tremendous stress and deep grief" at the time of his offences, and committed the offences due to "a lapse in judgment, rather than anything criminal in nature".

107 Having considered Mani's further submissions, we find them untenable. It was entirely within the District Court's discretion whether to order the underlying sentences for Mani's fresh offences to run concurrently or consecutively (see s 306(2) of the CPC). The District Court made it clear that the latter was warranted given Mani's "persistence in drug abuse and drug offending", which "had to be dealt with decisively" (see *Mani* at [56] and [57]). We see no reason to interfere with the District Court's exercise of its discretion in this regard. As for the mitigating factors raised by Mani, in our judgment, they carry little weight because the offences which Mani committed while on remission, including those taken into consideration for sentencing purposes, were so numerous and so severe that ultimately, the imposition of a cumulative sentence under ss 50T and 50Y of 513 days' imprisonment, which is close to the maximum duration of the cumulative sentence that may be imposed, is warranted. In any case, the District Court did take these mitigating factors into account in determining the sentences to impose on Mani under ss 50T and 50Y (see *Mani* at [33], [37] and [44]). In all the circumstances, Mani's appeal is without merit and we dismiss it.

Norfarah's appeal in MA 9780

The sentences meted out by the District Court

108 To recapitulate, Norfarah committed an LT-2 drug consumption offence involving the consumption of morphine just over six months after her release from prison. Subsequently, she absconded from SHH, thereby committing a s 50Y offence. She pleaded guilty to these two offences, and consented to another s 50Y charge and one charge of mischief under s 426 of the Penal Code being taken into consideration for the purposes of sentencing. She was sentenced as follows:

S/N	Offence	Sentence
1	Consumption of morphine (LT-2)	Seven years' imprisonment (consecutive)
		Enhanced sentence of 272 days' imprisonment (out of a maximum of 533 days, being the remaining duration of the remission order as at 10 July 2019), adjusted downwards from 444 days' imprisonment (consecutive)
2	Section 50Y offence	261 days' imprisonment (out of a maximum of 523 days, being the remaining duration of the remission order as at 20 July 2019) (consecutive)
Aggregate sentence		**Seven years and 261 days' imprisonment, with an enhancement of 272 days' imprisonment**

The parties' cases

109 Norfarah submits that the cumulative sentence imposed on her under ss 50T and 50Y should be approximately half of what the District Court ordered, meaning a cumulative sentence of 261 days' imprisonment instead of 533 days' imprisonment. She contends that the cumulative sentence of 533 days' imprisonment is crushing, and that the District Court erred in finding that the mitigating value of her guilty plea was negated by the aggravating effect of the other two charges which were taken into consideration for sentencing purposes.

110 The Prosecution does not oppose Norfarah's appeal in principle. However, it submits that an aggregate sentence of about seven years and 490 days' imprisonment would be appropriate. Notably, this is shorter than the aggregate sentence imposed by the District Court, but longer than that sought by the Prosecution in the proceedings below (which was seven years and 260 days' imprisonment).

Our decision

111 We allow Norfarah's appeal in part for the reasons that follow. Beginning with the sentence for Norfarah's s 50Y offence, we observe that:

(a) The gravity of Norfarah's breach of her curfew in failing to remain indoors at SHH between 19 July 2019 and 22 July 2019 was relatively low given the duration of 75 hours and 30 minutes, or just over three days.

(b) Norfarah's prospects of rehabilitation are reasonably positive. We note that her breach of her curfew took place almost seven months after her release from prison, and she had been employed prior to the breach. In our view, these are positive indicators of her commitment to rehabilitation and reintegration.

For these reasons, we consider that Norfarah's s 50Y offence should be situated at the lower end of Band 1. We therefore reduce the sentence for this offence from 261 days' imprisonment to 50 days' imprisonment, which is approximately 10% of the remaining remission period of 523 days as at 20 July 2019. We note that this percentage is twice that arrived in Abdul's case, even though we situated both Norfarah's and Abdul's respective s 50Y offences at the lower end of Band 1. This difference arises from the fact that the duration of Norfarah's breach of her curfew (75 hours and 30 minutes) was more than twice the duration of Abdul's breach (32 hours and 41 minutes), which makes

Norfarah's breach relatively more serious than Abdul's.

112 Turning to the underlying sentence for Norfarah's fresh LT-2 drug consumption offence, the sentence of seven years' imprisonment is the mandatory minimum sentence under s 33A(2)(*a*) of the MDA. With regard to the s 50T enhanced sentence for this offence, we make the following observations:

(a) An LT-2 drug consumption offence is a serious one carrying, as we have just noted, a mandatory minimum sentence of seven years' imprisonment.

(b) Although Norfarah's fresh LT-2 drug consumption offence is identical to her original drug consumption offence, the fresh offence took place some six months after her release from prison. The fact that she remained crime-free for a considerable period of time shows that she has reasonable prospects of rehabilitation.

113 On the whole, weighing up the above factors, we are of the view that Norfarah's fresh LT-2 drug consumption offence should be situated at the high end of Band 2, and that the appropriate enhanced sentence for this offence is two-thirds of the remaining remission period of 533 days as at 10 July 2019, or 355 days' imprisonment, rather than the 272-day imprisonment term imposed by the District Court.

114 Running all the sentences consecutively, Norfarah's aggregate sentence is seven years and 50 days' imprisonment, with an enhancement of 355 days' imprisonment. Due to our reduction of the sentence for Norfarah's s 50Y offence, her aggregate sentence is now shorter than that imposed by the District Court, even though we have increased the enhanced sentence for her fresh LT-2 drug consumption offence. To this extent, we allow her appeal.

Amanshah's appeal in MA 9790

The sentences meted out by the District Court

115 To recapitulate, Amanshah pleaded guilty to the following charges:

(a) one theft in a dwelling charge under s 380 of the Penal Code pertaining to the theft of two sets of socks;

(b) one LT-2 drug consumption charge pertaining to the consumption of morphine;

(c) one enhanced charge for the possession of diamorphine; and

(d) one s 50Y charge for breaching his curfew by failing to remain indoors at SHH for a total of 279 hours and 25 minutes between 16 February 2020 and 28 February 2020.

116 Amanshah consented to three charges being taken into consideration for the purposes of sentencing: (a) one charge of consuming a specified drug; (b) one charge of possessing a controlled drug; and (c) one charge of possessing drug utensils. He was sentenced as follows:

S/N	Offence	Sentence
1	Theft in a dwelling	One month's imprisonment (concurrent)

		Enhanced sentence of 254 days' imprisonment (out of a maximum of 861 days, being the remaining duration of the remission order as at 11 January 2020) (consecutive)
2	Consumption of morphine (LT-2)	Seven years and six months' imprisonment and six strokes of the cane (consecutive)
		Enhanced sentence of 368 days' imprisonment (out of a maximum of 813 days, being the remaining duration of the remission order as at 28 February 2020) (consecutive)
3	Possession of diamorphine (enhanced)	Two years' imprisonment (concurrent)
		Enhanced sentence of 239 days' imprisonment (out of a maximum of 813 days, being the remaining duration of the remission order as at 28 February 2020) (consecutive)
4	Section 50Y offence	275 days' imprisonment (out of a maximum of 823 days, being the remaining duration of the remission order as at 18 February 2020) (consecutive)
Aggregate sentence		**Seven years, six months and 275 days' imprisonment and six strokes of the cane, with an enhancement of 861 days' imprisonment**

The parties' cases

117 Amanshah submits that the cumulative sentence imposed on him under ss 50T and 50Y should be lowered to a sentence within Band 1. He says that he had difficulty in adapting to the MAS and the environment at SHH. To make matters worse, his sister passed away. These factors, coupled with the responsibility of looking after his daughter, pushed him into depression, which caused him to abuse prescription drugs and then illegal drugs. He hopes for an earlier release, and worries that his seven-year-old daughter will suffer if he stays behind bars for too long.

118 The Prosecution submits that Amanshah's appeal should be allowed in part. Specifically, his aggregate sentence should be reduced by around 206 days through a reduction of the sentence imposed for his s 50Y offence. The Prosecution takes the view that the 275-day imprisonment term imposed by the District Court for Amanshah's s 50Y offence is appropriate in the light of his overall high level of culpability, after taking into account his guilty plea and the fact that he surrendered himself. However, applying the totality principle, this sentence should be reduced by three-quarters, or 206 days, from 275 days' imprisonment to 69 days' imprisonment. This is because the aggregate of all the sentences imposed on Amanshah (including the s 50T enhanced sentences) is relatively high due to the fact that the total length of his s 50T enhanced sentences is 861 days' imprisonment, which is the remaining duration of his remission order at the time of his earliest offence and, in turn, the maximum duration of the cumulative enhanced sentences permitted under s 50T(2)(*b*) of the Prisons Act.

Our decision

119 Having considered the matter, we allow Amanshah's appeal in part. The main difficulty that we have with the District Court's decision is that the *cumulative* sentence imposed on Amanshah under ss 50T and 50Y exceeds the remaining duration of his remission order as at 11 January 2020, the date

of his earliest offence (that being the fresh offence of theft in a dwelling). As the underlying sentences for Amanshah's fresh offences are not in dispute, we focus on each of the individual sentences imposed under ss 50T and 50Y.

120 Turning first to the mandatory imprisonment sentence under s 50Y(1) for Amanshah's breach of his curfew in failing to remain indoors at SHH between 16 February 2020 and 28 February 2020, we note the following:

(a) This breach is relatively grave given the duration of 279 hours and 25 minutes, which is a substantial period of time.

(b) Further, the circumstances surrounding this breach do not give us cause to be optimistic about Amanshah's rehabilitative prospects. We note that Amanshah committed this breach in February 2020, just over two months after his release from prison on 6 December 2019. In addition, Amanshah did not return to SHH despite repeated requests from SHH's staff that he do so. In our judgment, this demonstrates a lack of commitment to rehabilitation and reintegration on his part.

Having regard to the foregoing, Amanshah's s 50Y offence should, in our view, be situated at the higher end of Band 2. We consider that a sentence of 490 days' imprisonment, which is about 60% of the remaining remission period of 823 days as at 18 February 2020, would be appropriate, rather than the 275-day imprisonment term imposed by the District Court.

121 We turn to the s 50T enhanced sentences for Amanshah's fresh offences. With regard to the enhanced sentence for the fresh LT-2 drug consumption offence, we observe that:

(a) The gravity of this fresh offence, being a repeat LT-2 drug consumption offence, is moderate to high.

(b) This fresh offence is identical to Amanshah's original offence of drug consumption. Further, this fresh offence was committed less than three months after Amanshah's release from prison. In these circumstances, we do not think Amanshah's prospects of rehabilitation at this point in time can be viewed as promising.

(c) Amanshah has a string of drug-related antecedents which date all the way back to 2004. These relate largely to drug consumption, drug possession, possession of drug utensils and FPUT offences. This pattern of offending suggests to us that Amanshah has not been able to rehabilitate himself yet.

122 For these reasons, we consider the overall severity of Amanshah's fresh LT-2 drug consumption offence to be high, and situate the offence at the mid-point of Band 3. In our judgment, the appropriate enhanced sentence for this offence is five-sixths of the remaining remission period of 813 days as at 28 February 2020, or 678 days' imprisonment.

123 The aggregate of the sentence for Amanshah's s 50Y offence (490 days' imprisonment) and the s 50T enhanced sentence for his fresh LT-2 drug consumption offence (678 days' imprisonment) – namely, 1,168 days' imprisonment – exceeds the remaining duration of his remission order at the time of his earliest offence, which (based on the theft in a dwelling offence committed on 11 January 2020) is 861 days. As we held at [75]–[76] above, the remaining duration of the remission order at the time of the offender's earliest offence operates as an outer limit to the cumulative sentence that may be imposed under ss 50T and 50Y. Accordingly, as the imposition of enhanced sentences under

s 50T is discretionary, we see no need to proceed further with ascertaining the appropriate enhanced sentences to impose (if any) for Amanshah's other two fresh offences (namely, the theft in a dwelling offence and the drug possession offence). Purely for the sake of elucidation, we observe that had it been necessary to consider the point, we would likely have found that the enhanced sentence of 254 days' imprisonment over and above the underlying sentence of one month's imprisonment for the theft in a dwelling offence is excessive on the basis of the principle that the underlying sentence imposed for a fresh offence should operate as a significant limiting factor on the extent of any enhancement in sentence for that offence. However, this does not arise in this case given that the whole of the remaining duration of Amanshah's remission order has been rescinded.

124 It remains for us to adjust the s 50T enhanced sentence for Amanshah's fresh LT-2 drug consumption offence downwards so that his cumulative sentence under ss 50T and 50Y will not exceed the remaining duration of his remission order as at 11 January 2020. To this end, we reduce the enhanced sentence of 678 days' imprisonment for this offence by 307 days and arrive at an enhanced sentence of 371 days' imprisonment, which is approximately 46% of the remaining remission period of 813 days at the time of this offence. Although this is shorter than the s 50T enhanced sentence that would normally be imposed for a Band 3 fresh offence (see [47] above), it is a necessary consequence of the outer limit to the cumulative sentence that may be imposed under ss 50T and 50Y.

125 Owing to our downward calibration of the s 50T enhanced sentence for Amanshah's fresh LT-2 drug consumption offence coupled with our decision not to impose any s 50T enhanced sentence for his other two fresh offences, Amanshah's aggregate sentence is now seven years, six months and 490 days' imprisonment and six strokes of the cane, with an enhancement of 371 days' imprisonment. This is shorter than the aggregate sentence imposed by the District Court, even though we have increased the imprisonment term for his s 50Y offence. To this extent, we allow his appeal.

Conclusion

126 For the reasons explained above, we:

(a) allow Abdul's appeal in MA 9438 in so far as we reduce his aggregate sentence – from nine months and 22 days' imprisonment, with an enhancement of 285 days' imprisonment – to nine months and 22 days' imprisonment, with an enhancement of 188 days' imprisonment;

(b) dismiss Mani's appeal in MA 9778;

(c) allow Norfarah's appeal in MA 9780 in so far as we reduce her aggregate sentence – from seven years and 261 days' imprisonment, with an enhancement of 272 days' imprisonment – to seven years and 50 days' imprisonment, with an enhancement of 355 days' imprisonment; and

(d) allow Amanshah's appeal in MA 9790 in so far as we reduce his aggregate sentence – from seven years, six months and 275 days' imprisonment and six strokes of the cane, with an enhancement of 861 days' imprisonment – to seven years, six months and 490 days' imprisonment and six strokes of the cane, with an enhancement of 371 days' imprisonment.

127 In closing, we again express our gratitude to Mr Zhuang for the considerable assistance he rendered us.