HONG KONG / JUDGMENT

HKSAR v. GADARA JASPAL SINGH

[2026] HKCA 414

COURT
Court of Appeal

DECIDED
11 March 2026

CASE / FILE NUMBER
CACC266/2025

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CACC 265/2025 and CACC 266/2025 On appeal from [2025] HKDC 1156 and [2025] HKDC 1157 (Heard together)

[2026] HKCA 414 IN THE HIGH COURT OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION COURT OF APPEAL CRIMINAL APPEAL NOS 265 and 266 OF 2025 (ON APPEAL FROM DCCC NOS 688 and 1008 OF 2024)

BETWEEN HKSAR Respondent and Gadara Jaspal Singh Applicant

Before: Hon Zervos JA in Court Date of Hearing: 11 March 2026 Date of Judgment: 11 March 2026

J U D G M E N T

On 24 June 2025, the applicant pleaded guilty to one charge of theft and two charges of burglary in two separate cases before District Judge G Lam (the judge). He was sentenced to a total term of 44 months' imprisonment. On 14 July 2025, the applicant applied for leave to appeal against sentence in respect of the two cases. At the leave hearing, he appeared in person, having had his application for legal aid refused on 1 September 2025. The Summary of Facts The facts outlined to the judge and admitted by the applicant in both cases were as follows. DCCC 688/2024 In this case the applicant pleaded guilty to one charge of theft and one charge of burglary. On the evening of 9 January 2024, he stole a smartphone, which had been left unattended on a desk counter, belonging to a staff member of a laundry shop in Yau Ma Tei. A CCTV camera captured the applicant committing the theft (Charge 1). In the early hours of 10 January 2024, the applicant burgled a fast food restaurant in Yau Ma Tei. He forced entry through the back door of the restaurant and ransacked the cashier area, and stole HK$3,000 in cash. A CCTV camera captured

the applicant committing the burglary (Charge 2). On 10 January 2024, the applicant was arrested and admitted, under caution, committing the two offences. DCCC 1008/2024 In this case, the applicant pleaded guilty to one charge of burglary. On 8 January 2024, he burgled an Indian restaurant in Yuen Long and stole three mobile telephones, a CCTV hard disk and HK$11,000 in cash. He forced entry through the back sliding door of the restaurant. A CCTV camera captured the applicant approaching the back sliding door in the early hours that day and using a refrigerator to block the view of the camera. His fingerprint was later found on the cash register. On 26 January 2024, the applicant was arrested and, in his caution statements, admitted committing the burglary. He stated that he had spent all the stolen money and sold the other stolen items, but refused to identify the buyer. The applicant's mitigation The applicant was born in India, came to Hong Kong in 1996 and became a permanent resident. He was 40 years old at the time of sentencing, educated to Primary 6 level, and had a girlfriend, with whom he had a 13-year-old daughter, living in the Philippines. He mainly worked as a delivery worker before his arrest. The applicant had eighteen previous convictions, including three for theft in 2011 and 2017, and eight for burglary between 2018 and 2023. His most recent similar conviction concerned a single charge of burglary, for which he was sentenced to 24 months' imprisonment in DCCC 1096/2022 on 21 September 2023. That sentence included a 6-month enhancement for his recidivism and for committing the offence about six to seven months after his discharge from prison. The present offences were committed between 8 and 10 January 2024, around two months after he was discharged from prison on 7 November 2023. In mitigation, while accepting that the involvement of multiple offences and the applicant's criminal record were aggravating factors, defence counsel submitted that the applicant acted alone; that his offending was attributable to his longstanding drug addiction, which he was determined to quit; and that he intended to return to India after serving his sentence. The reasons for sentence As for DCCC 688/2024, the judge noted that the applicant acted alone and had "started a new round of stealing" just two months after his discharge from prison on 7 November 2023. He adopted a starting point of 18 months' imprisonment for Charge 1, and 2 years and 6 months' imprisonment for Charge 2. He then enhanced each by 3 months to 21 months for Charge 1 and 33 months for Charge 2 to reflect the applicant's repeat offending in theft and related offences and his reoffending within two months of release from prison. He found no meaningful mitigation other than the applicant's pleas and reduced the sentences by one third to 14 months' imprisonment for Charge 1, and 22 months' imprisonment for Charge 2. Taking into account that both offences were committed within two days, he considered an overall starting point of 42 months' imprisonment to be appropriate and sentenced the applicant to a total of 28 months' imprisonment after plea. He arrived at this result by making 6 months of the sentence for Charge 1 consecutive to that for Charge 2, and the remainder concurrent. As for DCCC 1008/2024, the judge adopted a starting point of 2 years and 6 months' imprisonment for the burglary charge, which he enhanced by 3 months to 33 months' imprisonment to reflect the aggravating features identified in DCCC 688/2024, and sentenced the applicant to 22 months' imprisonment after giving a one third discount for his plea. Having considered that the three offences across both cases took place within three days and were similar in nature, the judge regarded the applicant as a serial burglar. Applying the totality principle, the judge ordered 16 months of the sentence in DCCC 1008/2024 to

run consecutively to the sentence in DCCC 688/2024, resulting in a total term of 44 months' imprisonment for both cases. Discussion The applicant did not advance any specific complaints about his sentence or file any grounds of appeal. The individual sentences for each charge and the overall sentence of 44 months' imprisonment for both cases were neither wrong in principle nor manifestly excessive. The starting points adopted by the judge for the individual charges cannot be criticised and are consistent with the sentencing range for theft and burglary offences of this kind: HKSAR v Tse Kar-hang, Nigel; HKSAR v Cheng Wai Kai. Apart from three theft convictions in 2011 and 2017, the applicant has eight burglary convictions between 2018 and 2023. On several occasions, the sentencing judges enhanced his sentences for the burglary offences by 2 to 6 months to reflect his reoffending in similar offences and/or within a short period after his discharge from prison. It is established that repeat and persistent offending is a serious aggravating factor that warrants a deterrent sentence to make the offender realise the seriousness of his wrongdoing and to protect society from habitual criminals. In appropriate cases, a defendant's reoffending within a short period or soon after release from prison may justify a further enhancement to reflect his status as a repeat and persistent offender: HKSAR v Suen Ping; HKSAR v Tsui Chiu Kwai. Given the applicant's criminal record and the circumstances of the cases, in particular the fact that he committed the offences over three days, some two months after his discharge from prison, the judge was entitled to regard him as a serial burglar who was in need of additional deterrence for his constant flouting of the law: HKSAR v Au Kin Wah. In light of his persistent reoffending in this type of offence within a short period after release from prison, the enhancement of 3 months on each charge was justified and appropriate. Except for his timely guilty plea, there were no other meaningful mitigating factors. The final sentence of 44 months' imprisonment for both cases incorporated fair and appropriate consecutive elements, once the individual sentences were adjusted, having regard to the applicant's overall culpability and the totality of the sentences.

Conclusion

There is no merit in the applicant's complaint about the sentence passed by the judge. His application for leave to appeal against sentence is refused. The applicant is reminded of his right to renew his application for leave to the Court of Appeal, but he is also informed of the consequences of doing so, which may include a direction for loss of time in respect of any period spent in custody pending his appeal, if the Court were to come to the view that there was no justification for the renewal of his application. (Kevin Zervos) Justice of Appeal Ms Karinna Lai, SPP, of Department of Justice, for the respondent The applicant appeared in person

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