

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

[2026] SGHC 72

Criminal Motion No 16 of 2026

Between

Foo Seang Kwang Victor

... Applicant

And

Public Prosecutor

... Respondent

EX TEMPORE JUDGMENT

[Criminal Procedure and Sentencing — Bail — Variation — Leaving jurisdiction]

[Criminal Procedure and Sentencing — Criminal motions — Reviewing District Court's refusal to grant leave to leave jurisdiction]

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Foo Seang Kwang Victor

v

Public Prosecutor

[2026] SGHC 72

General Division of the High Court — Criminal Motion No 16 of 2026
Christopher Tan J
2 April 2026

2 April 2026

Christopher Tan J:

1 The applicant in this case (“Applicant”) was arrested and placed on agency bail pending investigations against him for an offence under the Payment Services Act 2019 (“Act”). Following his arrest, the Applicant travelled overseas on multiple occasions, after having obtained permission from the police to do so. However, the police subsequently stopped granting him permission to travel after certain developments came to pass. The Applicant filed an application to leave jurisdiction with the District Court (the “LeJur Application”), which the learned District Judge (“DJ”) below refused.

2 Dissatisfied, the Applicant filed HC/CM 16/2026 (“CM 16”) asking that the General Division of the High Court (“GDHC”) exercise its revisionary powers to revoke the DJ’s dismissal of the LeJur Application. I dismiss CM 16 and now set out my brief reasons.

Background

3 The Applicant is a director of a company, Singapore Precious Metals Exchange Pte Ltd (“SPME”). He was arrested on 24 February 2025 on suspicion that he consented to SPME’s contravention of s 5(1) of the Act – SPME was alleged to have provided cross-border money transfer services without a licence. Shortly after his arrest, the Applicant was released on bail – he has remained on bail ever since. Over the course of about nine months following his arrest, the Applicant travelled overseas on multiple occasions to various destinations, having obtained the police’s permission to do so.

4 At the point of the Applicant’s arrest, his wife and two sons resided with him at his property at Trevoise Crescent (“the Trevoise Property”). About six months later, on 17 August 2025, his wife and two sons left for Malaysia and have not returned since.¹ The Applicant then sold the Trevoise Property, the sale having been completed 7 September 2025.² On 18 September 2025, the Applicant informed the police that he had sold the Trevoise Property and that his wife intended to file for a divorce.³ In the middle of November 2025, the police received information that the Applicant’s two sons had renounced their Singapore Permanent Resident (“PR”) status.⁴ Even then, the Applicant was allowed to continue travelling overseas, with his last trip being to Kuala Lumpur on 20 November to 1 December 2025.⁵ After his return on 1 December 2025,

¹ Affidavit of the Investigating Officer Koh Hwee Ching dated 20 March 2026 (“IO’s affidavit”) at para 14.

² Victor Foo Seang Kwang’s affidavit dated 6 March 2026 (“Applicant’s affidavit”) at para 43.

³ IO’s affidavit at para 13.

⁴ IO’s affidavit at para 15.

⁵ Applicant’s affidavit at para 80.

the Applicant informed the police that his wife was also planning to renounce her PR status⁶ and that he no longer owns any immovable property in Singapore.⁷ From then on, the police stopped allowing the Applicant to leave the jurisdiction.

5 On 22 January 2026, the Applicant was produced in court and charged, at which point the DJ granted him court bail in replacement of the police bail that he had previously been on. On 3 February 2026, the Applicant filed the LeJur Application with the District Court, seeking permission to travel to Kuala Lumpur from 6 February to 1 March 2025. The reasons which he gave in support of the LeJur Application are set out below:

- (a) He wanted to visit his family in Malaysia to:
 - (i) ensure his wife’s wellbeing and salvage their marriage;
 - (ii) assure his children that he is seeking to preserve the family unit; and
 - (iii) spend time with his family during the Chinese New Year period.
- (b) He also needed to attend at the office of the Malaysian Anti-Corruption Commission (“MACC”) to assist with their investigations.

The Prosecution objected to the LeJur Application.

⁶ IO’s affidavit at para 15.

⁷ IO’s affidavit at para 23.

6 The LeJur Application was fixed for hearing before the DJ on 11 February 2026. The DJ noted that the Applicant posed a “significant flight risk” on account of him no longer having strong roots in Singapore⁸ and the fact that he faced a starting sentence of an imprisonment term for the offence concerned.⁹ The DJ also noted that Applicant’s reasons for wanting to travel were neither urgent nor essential.¹⁰ The DJ consequently dismissed the LeJur application.

7 The Applicant then filed CM 16 on 6 March 2026 asking the GDHC to exercise its revisionary jurisdiction to revoke the DJ’s dismissal of the LeJur Application.

Preliminary issue – clarity as to the scope of the remedy sought

8 A preliminary issue pertains to the remedy that is being sought by the Applicant. CM 16 simply asks that the GDHC “revokes the order of the [DJ] ... denying the Applicant’s application to leave jurisdiction”,¹¹ without alluding to what should follow in the event that such revocation is granted. The Applicant’s written submissions go slightly further, requesting that the Applicant “be permitted to travel to Malaysia on a *revised* set of dates” [emphasis added].¹² The papers nevertheless make no mention of the revised period on which the Applicant proposes to travel.

9 This omission makes it difficult to assess CM 16 on a comprehensive basis, as the question of whether to grant the remedy sought by the Applicant

⁸ Notes of Evidence of the hearing of the LeJur application before the DJ on 11 Feb 2026) (“NE”) p 31 line 19.

⁹ NE p 31 lines 21–24.

¹⁰ NE p 31 lines 29–30.

¹¹ Notice of Motion dated 6 March 2026.

¹² Applicant’s written submissions at para 72.

(ie, being allowed to travel) should be evaluated with reference to a specific window of time rather than in a vacuum. The proposed period of travel may potentially have a bearing on the validity of the reasons for wanting to travel. Setting out the proposed travel period in the application for revision thus ensures clarity in the parameters within which the Prosecution is to engage the Applicant on the remedy which he seeks.

10 In any case, this issue is moot as I do not see any reason to exercise the GDHC’s revisionary powers to revoke the DJ’s dismissal of the LeJur Application. I explain.

Whether the revisionary powers of the court should be exercised

11 The legal principles governing the GDHC’s exercise of revisionary powers are trite. As explained by Sundaresh Menon CJ in *Xu Yuanchen v Public Prosecutor* [2021] 4 SLR 719 (“*Xu Yuanchen*”) at [20]–[21], the powers of revision may be invoked when two conditions are fulfilled:

- (a) First, there must be some error in the decision or order by the judge below.
- (b) Secondly, material and serious injustice must have been occasioned as a result. In this respect, “serious injustice” arises when there is “something palpably wrong in the decision that strikes at its basis as an exercise of judicial power”.

Revisionary powers should thus be exercised sparingly: *Public Prosecutor v Yang Yin* [2015] 2 SLR 78.

12 In my view, the decision by the DJ below fails to cross the requisite threshold for revision. Specifically, I am not entirely satisfied that there was an

error by the DJ to begin with. To elaborate on that conclusion, it is necessary for me to canvass the framework under which bail was granted to the Applicant and the LeJur Application made.

13 The punishment provisions applicable to the offence allegedly committed by the Applicant stipulate that apart from the prescribed fine, the offender is liable to an imprisonment term “not exceeding 3 years”: see ss 5(3) and 90 of the Act. This means that the offence at issue is a *bailable* offence, as per the First Schedule to the Criminal Procedure Code 2010 (“CPC”). When an accused is charged with a bailable offence, bail is commonly understood to be available ‘as of right’: see s 92(1) of the CPC. However, where the bailable offence is punishable with more than just a fine, s 92(3)(b) of the CPC provides that the court has the discretion to withhold bail on account of flight risk. Specifically, the provision states that:

where ... a court believes, on any ground prescribed in the Criminal Procedure Rules, that the accused, if released, will not surrender to custody, be available for investigations or attend court, the court *may* ...

(b) ... refuse to release the person ... on bail

[emphasis added]

It was against this statutory backdrop that the Applicant was released on bail by the DJ on 22 January 2026, when he was produced in court and charged.

14 Consistent with s 94(1)(a) of the CPC, which provides that one of the default conditions of bail is that the accused surrenders his travel document, it was a condition of bail granted by the DJ that the Applicant surrenders his passport. The Applicant, in subsequently filing the LeJur Application, wanted the DJ to exercise the court’s powers under s 102(1) of the CPC to *vary* this condition of bail. That provision reads:

If a court has granted bail to a released person and it is shown that —

- (a) there has been a material change of circumstances; or
- (b) new facts have since come to light,

the court may vary the conditions of the bail or personal bond, or impose further conditions for the bail or the personal bond, or cause the released person to be arrested and may commit him or her to custody.

As seen from the extract above, s 102(1) of the CPC also empowers the court to attach conditions attendant upon an accused person’s travels, should he be allowed to leave the jurisdiction.

15 While there does not appear to be any written decision on the approach for dealing with an application by an accused on bail to leave jurisdiction, it would appear that as a matter of principle, the balancing exercise undertaken by the court in deciding whether to *grant* bail is also applicable when the court is deciding whether to *vary* the terms of bail that has already been granted, so as to allow the accused to leave the jurisdiction while on bail. In the context of an assessment whether to *grant* bail for a bailable offence punishable with more than just a fine, the statute expressly stipulates flight risk as a consideration that must inform the court’s determination (see [13] above). The focus on flight risk stems from the interest of the community in upholding the efficacy of the criminal justice system. Still on the context of whether to *grant* bail, it is apposite to note that the Court of Appeal in *Public Prosecutor v Sollihin bin Anhar* [2015] 3 SLR 447 (“*Sollihin*”) (at [24]) held that the court must balance that interest of the community against an accused’s right to not be deprived of liberty when he has not even been convicted. Correspondingly, when deciding whether to *vary* the terms of bail that has already been granted, so as to allow the accused to leave jurisdiction, the court should also engage in the exercise of

balancing the interests of the community (that the accused stands trial for the offences with which he has been accused) against the interests of the accused.

16 However, the dynamics of the balancing exercise when deciding whether to allow an accused who is on bail to travel overseas will differ from that undertaken when deciding whether to grant an accused bail in the first place, in at least two material respects:

- (a) First, the relevant interest of the accused that is being factored into the balance would, unlike in cases where the court is deciding whether to grant bail, *not* pertain to the deprivation of his liberty. The accused is already on bail and would therefore be free to roam the jurisdiction. Rather, the potential prejudice to the accused which the court must consider arises from the *narrowing* of the scope of that freedom, through the curtailment of cross-border travel. Intuitively, such an imposition commands less weight on the scales when compared to the potential prejudice to the accused in the context of an assessment whether to grant bail in the first place (where refusal means that the accused is locked up even before his guilt is determined).
- (b) The second difference arises from the reality that oversight by law enforcement agencies over the accused will be severely diminished – if not neutered – once the accused is overseas. In dealing with an application by an accused on bail to leave the jurisdiction, the court must thus be alive to the heightened risk that the community’s interest in ensuring that he faces trial could be compromised by the ease with which the accused could abscond once beyond our shores.

17 The concurrent operation of both (a) and (b) above means that any prejudice which the accused claims to have suffered from being denied travel needs to be that much heftier to outweigh the risk of flight, given that the former is already inherently lower (compared to the bail denial scenario where liberty is deprived entirely) and the latter inherently higher (given the increased ease with which an accused can abscond once beyond our shores). Accordingly, if the risk of absconding is enhanced by factors *over and above* the plain fact of the accused being beyond jurisdictional reach (*eg*, evidence that the accused has taken steps to remain overseas indefinitely, lack of roots connecting him to Singapore, *etc*), I would expect that the reasons for travel have to be quite compelling before the scales are tipped in the accused's favour.

18 Returning to the present application in CM 16, the Prosecution opposed the LeJur Application on account of various factors which potentially signify the progressive erosion of the Applicant's roots in Singapore. As explained at [4] above, the Applicant's wife and two sons left for Malaysia on 17 August 2025 and have not returned since. This was followed by the Applicant selling the Trevoze Property on 7 September 2025. In particular, the Prosecution was concerned about how the Applicant saw fit to inform the police about the sale only on 18 September 2025, after it was completed, notwithstanding that marketing of the Trevoze Property would have been afoot for some months before that. In fact, the Applicant had given multiple statements to the police during the four-month period prior to 18 September 2025 but had not seen fit to mention the impending sale of the Trevoze Property even once.¹³ The development which eventually tilted the police's stance towards blocking the Applicant from travelling overseas altogether came after

¹³ Respondent's written submissions at para 21.

1 December 2025, when they finally firmed up the decision to charge him in court.

19 Notwithstanding the factors raised in the preceding paragraph, it appears to me that there were some drivers of flight risk which the DJ failed to sufficiently consider. Even after his family left for Malaysia and the Trevoze Property was sold, the Applicant *continued* to travel overseas, with the police's permission, on about 15 occasions – starting from 20 September 2025 and ending on 1 December 2025. Notably, he returned to Singapore every single time. This was also not a case where the Applicant had severed *all* ties to Singapore – his company SPME still has significant operations within Singapore (although it must be highlighted that SPME itself is being charged under the Act – see [3] above). The DJ did not appear to have considered whether the risk of flight here has been attenuated by virtue of these factors. On that account, I harbour some reservations about the DJ's finding (at [6] above) that the Applicant poses a *significant* flight risk. Of course, the fact that an accused returns to Singapore whilst on bail does not necessarily mean that he will not abscond – aspects of the factual matrix impacting on flight risk may well have evolved since the accused's last return. However, the Applicant's track record of returning to Singapore while on bail and the scope of his company's operations here should still have been placed on the weighing scales, to determine if they had sufficiently mitigated flight risk. In line with what I mentioned at [17] above, that could well have augured against adopting too exacting a standard when assessing the Applicant's reasons for travelling.

20 Having said that, I am of the view that the reasons for travel furnished by the Applicant to the DJ (as set out at [5] above) fail to pass muster – even when adjudged against a more forgiving threshold:

- (a) I begin with the family-related reasons, *ie*, ensuring the wellbeing of the Applicant’s wife, salvaging their marriage and assuring his children, as well as spending Chinese New Year with them. Maintaining family ties is of course very important. However, the specific reasons offered by the Applicant were not sufficiently persuasive in the present context, especially when juxtaposed against how his roots in Singapore have been progressive dislodged to a significant extent. It was not unreasonable for the police to expect him to offer something a little more pressing, by way of explanation, before allowing him to leave our shores. After all, Applicant’s counsel had explained to the DJ during the hearing of the LeJur application that the family had taken a *joint* decision to take a break and move to Malaysia, even though investigations were ongoing.¹⁴ The Applicant must have known at the time that it cannot be taken for granted that he can leave the country at will, while the case against remains unresolved. The current state of affairs – where the Applicant’s wife and sons are in Malaysia while he remains stuck in Singapore – was an entirely foreseeable consequence of the joint family decision to relocate. This makes it that much harder to sympathize with the Applicant’s pleas that the geographical separation prejudices him. In any case, as the Prosecution explained during the hearing of the LeJur application, there is nothing preventing the Applicant’s wife and children from entering and leaving Singapore,¹⁵ so long as the

¹⁴ NE p 5 lines 17-27.

¹⁵ NE p 20 lines 23–24.

Applicant himself stays within our borders. The police have since also adduced an affidavit affirming the same.¹⁶

- (b) As regards the need for the Applicant to attend at MACC’s office to assist with investigations, there is little reason to fault the DJ for not placing any significant weight on this factor. At the hearing of the LeJur application on 11 February 2026, there was no evidence before the DJ suggesting that the MACC was going to blame the Applicant for not physically turning up at MACC’s office in Malaysia, given that his passport had been impounded by the Singapore police as a condition of bail. Furthermore, the Prosecution had also intimated at the hearing that it was getting in touch with the MACC.¹⁷ By way of update, the Prosecution has since tendered an affidavit stating that the police have contacted the MACC and confirming that the latter is amenable to exploring various alternatives to secure the Applicant’s assistance (including requests for mutual legal assistance).¹⁸ The Applicant has also sought to provide further updates on this front, which I address further below at [24].

21 It is appropriate at this juncture to reiterate once again the point made at [11] above: that in an application for revision, the threshold for intervention has been set at a high bar. In *Xu Yuanchen*, the learned Chief Justice cited (at [20]) the case of *Knight Glenn Jeyasingam v Public Prosecutor* [1998] 3 SLR(R) 196, where the court cautioned that exercising the revisionary jurisdiction other than sparingly could mean that “such jurisdiction would be little more than another

¹⁶ IO’s affidavit at paras 14 and 36(b).

¹⁷ NE p 31 lines 30–32.

¹⁸ IO’s affidavit at para 34.

form of appeal”. Bearing that caution in mind, I conclude that notwithstanding my reservations (at [19] above) about the DJ’s view that the Applicant poses a *significant* flight risk, there is still little reason to disturb the DJ’s ultimate decision to dismiss the LeJur Application. That decision cannot be regarded as an error, much less one giving rise to “serious injustice”, especially since the Applicant (as explained in the preceding paragraph) failed to offer the DJ any persuasive reasons for his proposed travels.

The Applicant’s *further* reasons for leaving jurisdiction

22 For purposes of CM 16, the Applicant seeks to rely on two new factors, set out in his supporting affidavit, supporting his application to revoke the DJ’s dismissal of his LeJur application. Specifically, the Applicant claims that the trip to Malaysia is necessary as:

- (a) he needs to care for his aged mother;¹⁹ and
- (b) he needs to tend to SPME’s operations in Malaysia.²⁰

23 Critically, both these factors were not canvassed before the DJ during the hearing of the LeJur Application. This is thus not a case where the DJ erroneously failed to place sufficient weight on them. The Applicant has not explained why he omitted to raise these factors to the DJ. More importantly, he has not demonstrated why the DJ’s failure to take account of these two factors should be regarded as an error meriting revisionary intervention, when the DJ was not even given the chance to take cognizance of these factors to begin with. In this respect, the following observations by the Court of Appeal’s in *Sollih* (at [16]–[17]) are instructive:

¹⁹ Applicant’s affidavit at para 107.

²⁰ Applicant’s affidavit at para 112.

16 ... First, it is well established that the revisionary jurisdiction of the High Court is only exercised to correct errors in a lower court decision that has resulted in a miscarriage of justice. When new facts arise or are discovered after a bail decision made by a lower court, that bail decision is not rendered wrong as a result of such new facts or evidence. It may well be that the decision should no longer stand in the light of this new material but this does not mandate the conclusion that in such circumstances, the appropriate course is to bring such new material to the High Court in its revisionary jurisdiction. On the contrary, in the context of bail, it is open and indeed appropriate that such new material be brought to the same court that made the original bail decision to enable it to exercise its power to revoke or vary the bail it had extended previously, pursuant to s 102(1) of the CPC ...

17 To suggest that a revisionary court should consider new facts to review the propriety of a lower court's bail decision without the Prosecution having availed itself of the process set out in s 102(1) of the CPC does not cohere with the scope of the revisionary court's powers which is concerned with the correction of errors and not with the consideration of new material that may be relevant to earlier bail decisions.

It would thus not be appropriate for me to rely on the two new factors in (a) and (b) of the preceding paragraph as a basis to exercise my revisionary powers.

24 Furthermore, the Applicant has at the eleventh hour sought to tender a further affidavit²¹ containing new facts, including details of his recent communications with the MACC over the last two weeks. In particular, the Applicant points out that by its letter dated 20 March 2026, the MACC has indicated that it can help to prevent him from absconding in Malaysia, by retaining his passport once he arrives at the Malaysian airport and returning it to him only at the point that he boards a flight back to Singapore.²² In line with the holding in *Sollihin* extracted in the immediately preceding paragraph, I do not see how the Applicant can rely on these new facts to advance the proposition

²¹ Victor Foo Seang Kwang's affidavit dated 1 April 2026 ("Applicant's 2nd affidavit").

²² Applicant's 2nd affidavit at para 22 and pp 53-54.

that the DJ's decision to dismiss the LeJur application was erroneous (to the point of justifying revisionary intervention) when, at the point the decision was made, these facts did not even exist. The proper process is for the Applicant to raise these new facts to the District Court in a *fresh* application to leave jurisdiction.

Conclusion

25 In conclusion, there appears to be no reason for me to exercise revisionary jurisdiction over the DJ's dismissal of the LeJur Application. CM 16 is thus dismissed.

Christopher Tan
Judge of the High Court

Chia Ru Yun Megan Joan, Lee Yen Yin and Clara Ng Cheng Mun
(Tan Rajah & Cheah) for the applicant;
Vincent Ong (Attorney-General's Chambers) for the respondent.
