



IN THE CROWN COURT AT St ALBANS

R V NIBEEL AND CHOUDHURY

SENTENCING REMARKS 17 May 2024

The Hon Mrs Justice Foster 17 May 2024

You may both remain seated until I tell you to stand up.

Offences

1. On 28 March 2024 you Rayis Nibeel and you Umer Choudhury were both convicted of the murder of Omar Khan (Count 1) and of the wounding of Cheyenne Barnes with intent (Count 2).

**R v Nibeel and Choudhury
The Hon Mrs Justice Foster DBE
17 May 2024**

2. In addition, Umer Choudhury you were convicted of possession of a bladed article (Count 3), while you Rayis Nibeel had previously pleaded Guilty to possession of a bladed article (also Count 3). This count referred to the knife of 28 cm length, which killed Omar Khan and wounded Cheyenne Barnes.
3. As to drugs, both of you had previously pleaded Guilty to being concerned in the supply of cocaine and being concerned in the supply of heroin (Counts 4 and 5). Mr Choudhury had previously pleaded Guilty to being concerned in the supply of cannabis (Count 6).
4. My task today is to sentence you both for each of these offences. First I am going to explain some of the basic circumstances of the case, and some facts about you both in order to explain the factual background I have considered when deciding on the appropriate sentences for you. I will then turn to explain how I am obliged by the law to go about deciding on your sentences. In addition to legal materials, I have considered written notes on sentencing from Counsel involved which I have taken into account and for which I am grateful. I have also been assisted by a pre-sentence report for each of you, together with statements from Cheyenne Barnes and Ms Khan, Omar Khan's mother.

Age

5. Rayis Nibeel you were born on 28 September 2006 and are now 17 years old. You were 16 at the time of the offences, on 16 September 2023, you were not quite 2 weeks short of your 17th birthday. Umer Choudhury you were born on 11 May 2006 and were 17 years and 4 months old at the time of the offences. You are 4 ½ months older than Rayis Nibeel.

Impact on Cheyenne and on Omar's children of his death

6. Cheyenne Barnes has told the court of the physical and the deep mental scars that have been inflicted upon her. She sustained stab wounds to her right forearm and right upper arm and also a superficial wound to her left forearm. The stab wound to the right forearm extended through all layers of the skin to the underlying structures. On arriving at Dunstable Hospital a pulse could not be felt in her right wrist and her right arm was cold to touch.

Physically, she has been left without feeling in some of her fingers of her right hand because of her injuries. The feeling on her right arm is much impaired and there is nerve damage to the left. She has had numerous operations and about 10 hospital visits as a result of the injuries she suffered on that night, struggles every day to do day to day activities including simple things like washing, dressing, cooking, and holding objects. She has explained how she now needs help to look after herself, which is embarrassing for her and frustrating. She tries to hide the major scars up her arms from her children - children who have lost their father. Mentally, Cheyenne Barnes says of herself, it feels as if her soul had been ripped out. The devastating effect upon her children of the violent death of their father has been movingly explained by her, and the loss of the man she describes as, despite his problems and faults, a wonderful and devoted father has been made vivid in her statement. Acknowledging frankly that both she and Omar Khan had made some bad decisions in general and at the time of these offences, she is devastated by the impact of the killing and her injuries upon her physically and emotionally upon her family and her peace of mind.

7. In a very affecting statement Omar Khan's mother describes her utter heartbreak. She tells the court he was a man that would give you his shoes, and walk barefoot if he had to. He idolised his children and had a close relationship with his parents. He had in the past managed to break free from the tyranny of drug use. Tragically he had spoken with his father the day before he was murdered expressing his determination to break free for good. That now will never be.

Facts

8. I turn to the circumstances of these offences, of which I am sure to the criminal standard.
9. Omar Khan was aged 38 at the time of his death, as was Cheyenne Barnes when she was very badly injured by you Mr Nibeel, wielding the large machete-type knife on the evening of September 2023. They were long-term partners with two children together. They were also both, long-term serious drug users of heroin and crack cocaine with criminal records about which the

jury heard in this trial. Ms Barnes accepted that their purpose that evening was to acquire drugs, to steal them without paying for them and both she and Mr Khan were carrying knives when they left the car driven by their friend who took them to the drugs meeting.

10. It was up some metal stairs, with a platform, and down a side alley behind Sunderland Park's Tesco's, in Luton, Beds. Ms Barnes and Mr Hector had not been there before; they did not know you two, but a rendezvous had been arranged with the RJ line for who you both were working that evening. It was a dark area with two staircases, a landing, and a partly gated area. It was towards 2 o'clock in the morning.
11. Mr Khan and Ms Barnes on her admission were withdrawing from drugs, Mr Khan was in a bad way, and in need of a fix. Another friend of theirs had made contact with the RJ line to arrange a meeting to acquire drugs - as stated, they did not intend to pay for those drugs, and it was that taking without paying, and the humiliation of having to hand them over which provoked you Mr Nibeel, into stabbing Mr Omar Khan. By their verdicts the jury rejected your story that you had acted in self-defence when, as you admitted, you thrust the large machete type knife into Omar Khan on two occasions.
12. Cheyenne Barnes accepted she and Omar were carrying relatively small knives, which were dropped at the scene. Omar Khan was holding his at his side, but nothing that Omar Khan did justified in any way your attack upon him that night, or the attack at the same time on Ms Barnes. You Mr Nibeel were carrying the knife that night. The jury also rejected your case Umer Choudhury that you had nothing to do with it. You, as you were entitled, did not give evidence, but it was said on your behalf that you had no involvement, you had only come to the area because you were bored, and to have a cigarette with Rayis Nibeel for social company that evening; that you were only a peacemaker and were a calming, peaceful influence. That was not the case.
13. What I am sure happened is that when Cheyenne and Omar came round the corner towards the stairs it was dark. From the shadows she saw two

figures emerge on the roof, you Umer Choudhury were standing somewhat behind Rayis Nibeel, who indicated they should approach. Omar was in front, Cheyenne followed, as they walked up the stairs. Once there, Umer Choudhury was then behind Cheyenne Barnes. They were made aware that you Nibeel had the drugs, what followed happened very quickly. Mr Khan told you to give them to him - I am sure, aggressively, but you Rayis Nibeel did not give them to him. I am sure, as Cheyenne Barnes told us, that Khan was armed with a knife tucked into his right hand sleeve, which he was in the habit of carrying, but having listened carefully to the witnesses give evidence I do not accept as you Rayis Nibeel sought to say, that he threatened you, or waved it at you. I am sure he did not. Omar Khan told you once again to give the pack of drugs to him, but you did not.

14. You, Umer Choudhury, calmly standing by, smoking a cigarette, watched the encounter, saw Nibeel refuse, and told him to give the drugs to them. You said that it “*wasn't worth it*”. So, the drugs are thrown down as you directed, and Cheyenne Barnes stoops and picks them up. There was then an exchange about the money, the “paper”. As Cheyenne stooped down to get the drugs on the ground, so you Nibeel and Omar Khan, are having an altercation going back and forth. You Nibeel were angry that you'd had to give up the drugs for no payment; you were shouting at Khan “*who do you think you are*”; but Omar Khan was leaving. You thereupon produced a really large knife, you lashed out with it, your actions are described as “*just going mad, mental*” by Mr Hector the driver who is watching events from nearby just below. As Omar Khan is leaving and on the stairs, you stab him deeply in the chest, just as Cheyenne Barnes is standing up from retrieving the drugs.

15. Mr Khan did not see it coming, and barely realises what has happened, and moves down the stairs. You had stabbed him just below the ribs, but the blade passed through from the front to the back and the right renal artery was cut right through and his liver was sliced into. You then turn and stab Cheyenne Barnes, under her arm as she is by the gate, next you turn back around and stab Omar Khan again, in his arm, when he is on the stairs, before you Nibeel turn back around once more. This thrust went through

his arm entirely. Khan was staggering down on the steps, and worried for Cheyenne whom he has just seen stabbed by you at the top of the stairs, he had tried to reach her, but that was the point when he was stabbed by you for the second time. As you stabbed Omar Khan for the second time Cheyenne was still up on the platform, at the top of the stairs with the metal gate. You then shut that gate, Rayis Nibeel, trapping Cheyenne Barnes up there with you and Umer Choudhury.

16. Cheyenne remembers you Umer Choudhury, as calmly smoking a cigarette at this time, "*just chilled out*" she said, and that you did most of the talking, telling Rayis Nibeel what to do. You had said to Nibeel, who has already used the knife against Cheyenne: words including "*lay her down, put her down as well*", which she believed to mean finish her off. You Rayis Nibeel do not succeed further however, because she manages to get the gate open, she is crying out "*I've been stabbed I've been stabbed*" and she manages to jump down the stairs.
17. As she picks herself up she and Omar Khan both try to run, Omar Khan just collapses, and despite the efforts of his friend Mr Hector who is nearby and eventually of the emergency services who have been called, he dies, because you stabbed him. He suffered a number of sharp force injuries to his left arm and hand which I am sure were caused in part when he was defending himself against your attack. His injuries included a knife injury to his back, but it was the stab wound right through to his liver, requiring, moderate force with that knife, that killed him.
18. The knife, which you later dispose of, is large for your frame so that when the CCTV shows you and Choudhury escaping, it can be seen that you cannot walk quickly away without holding on to it and impairs your gait so you almost limp. You waited some time to get rid of the knife and disposed of it at a distance from the incident, as you accepted in evidence.

Joint involvement

19. You two have known each other since you were about 14 years old, and live about 10 minutes from each other. You describe this as a relationship of friendship, but it is clear from the cell cite evidence, the messaging, and the

phone extracts that you two had an established relationship of drug dealing together, and close familiarity with knives and their use in the context of drug dealing. You acted as a team. The messages between you in the days before the incident I am sure referred among other things to a knife belonging to Mr Choudhury, left behind by mistake. Mr Nibeel had made a number of orders over the previous few months for a huge quantity of knives - some 65 bladed articles costing over £1,200 none of which had a legitimate purpose in your possession of them - and all but a handful of which you had disposed of by the time of these offences. You had created a customer account in your mother's name to make the knife purchases, paying for all but a very few out of your own account, and arranging for them to be delivered to your home address. You explained you sold weapons to make extra money, and armed yourself because of your drug dealing. The documents showed you had an account into which payments disguised as other things went for your drug dealing business and from September 2022 until the date of these offences you have admitted you were working several days a week earning hundreds of pounds a day. You told the court you spent the drug - earned money on clothes, food, video games and going out to eat.

20. The evidence shows you both to have been deeply involved in drug dealing, and dealing together. You were in contact on many occasions unconnected with this incident showing drug related involvement, and on the night of the incident you left the scene together to go back to Umer Choudhury's house /garden. Your dropping of a series of phone lines after the incident, seeking to conceal your movements and avoid detection for the offences shows a significant level of sophistication and experience. The numerous contacts between, in particular Umar Choudhury and the RJ line after the offences is reflective I am sure of the intimate involvement of you both. Umer Choudhury is shown taking the lead liaison role with RJ and the organisers. I am sure he was telling you on occasion, Rayis Nibeel, what to do and how to do it, both beforehand with regard to drugs and at the scene concerning the drugs and when Rayis Nibeel was using the knife on the victims.

Framework for my consideration

Approach - Guidelines

Overarching /General Youth welfare/MH/trafficking

21. I have the assistance of a number of relevant Guidelines that set out how I must approach this task. By section 59 of the SA 2020 I must follow their guidance. Those on Sentencing Children and Young People make clear that where a court has to sentence someone young, its aim is to prevent more offending, but at the centre of its consideration must be your welfare. I must approach the exercise of sentencing you both in an individualistic and young-person focussed manner given the age of both of you at the time of the offence, but recognising that chronological age and maturity are not the same thing. Adverse personal experiences, particularly as a child, can impact upon the way someone behaves, and the way they react to their offending and the victims of it. I shall return to these matters later. The law recognises that young people of your age are generally not fully developed, and I bear in mind that developmental age may be more important than chronological age in particular when considering the amount of blame that is to be attached to your actions in committing the offences - what the law calls culpability. These things can impact particularly on decision making and risk-taking, on acting impulsively. Negative influences also have a greater effect on a younger mind. Youth can also be a reason for not understanding the pain that is caused to victims. The Youth Bench Book assists in its references to external factors that may affect a young offender's behaviour including familial criminality and disrupted education.

22. In this case each of these factors has some relevance which I will return to shortly.

23. I have also taken into account the Guidance on sentencing those who have mental difficulties, although I have not been referred to any *general* mental health reports, I have had close regard to the particular recent specialist

Neurodevelopmental Report for Rayis Nibeel, and to the two Pre-Sentence Reports, one for each of you. They have indicated that you Rayis Nibeel have very recently, on 8th May 2024, been diagnosed as suffering from Attention Deficit Hyperactivity Disorder (ADHD) which it is generally acknowledged may, particularly in adolescents, impact emotional regulation, stress responses and impulse control. The Pre-Sentence Report states that you Umer Choudhury have been the subject of a positive decision of the National Referral Mechanism (NRM) concerning your involvement in and vulnerability to child exploitation in a criminal context. Rayis Nibeel has an application which is awaiting a final decision from the NRM at the present time. I bear all that in mind as further context to the offending. The recent expert report on your neuro development explaining your ADHD Rayis Nibeel, was very informative, It bears out what was said in your Pre-Sentence Report, and I have taken careful note of its contents.

The murder of Omar Khan – sentence fixed by law 2020 Act and Schedule

24. I shall deal first with the offence of the Murder of Omar Khan.
25. The way in which I must sentence you both for murder has been decided by Parliament and is set out in the Sentencing Act 2020. It is fixed by law and in your cases because you were both under 18 at the time of the killing, it is in each case a sentence of detention at His Majesty's Pleasure under section 259 of the Act of 2020. Section 322 applies in these circumstances and requires me to determine what is known as the minimum term, that is to say the amount of time you will be detained come what may, and only after which the Parole Board is able to consider your release.
26. The minimum term must be for such period as I consider appropriate, taking account of the seriousness of the offence of murder and the other offences and any time you have spent on remand. In considering the seriousness, I must have regard to the general principles set out in Schedule 21 to the Sentencing Act 2020. It is a matter of judgement and not a mechanical or arithmetical exercise.

R v Nibeel and Choudhury
The Hon Mrs Justice Foster DBE
17 May 2024

Starting points

Nibeel - knife to scene

27. I have to determine the starting points for the minimum term of detention. Parliament has set out in paragraph 5A of Schedule 21 to the 2020 Act a sliding scale of starting points for those who like you are under 18 at the date of the offence. They refer back to starting points for offenders over 18. Where an offender takes a knife to a scene intending to have it available to use as a weapon and uses it (or another weapon) to commit the murder, Paragraph 4 of Schedule 21 gives a starting point for those 18 and over of 25 years. In the case of a person who is 15 or 16 years old at the time of such a killing the starting point for the offence is 17 years custody.

Choudhury also knife to scene - relevant intent.

28. Mr Choudhury, I am satisfied that these provisions apply to you too. The jury's verdicts in your case that you were in joint possession of the murder weapon, and had intent in respect of the murder show they were sure that you were aware that Rayis Nibeel took a knife that evening to the encounter with Omar Khan and Cheyenne Barnes, and you also intended the knife to be available to use as a weapon where necessary. (See *R v Kelly* [2011] EWCA Crim 1462). I am sure that you knew of the knife, and had the right to say what was done with it that evening. I am sure of this from having read the messages between you pre-dating the incident, which I am sure referred to your possession of and familiarity with knives, which demonstrated the intimate involvement of you and Rayis Nibeel in drug dealing generally, also from what you were heard telling Rayis Nibeel after he had brought out the knife at the scene - that is to "*lay down*" Cheyenne Barnes. As the jury found, you intentionally encouraged or assisted Rayis Nibeel. The fact of your previous possession of a bladed article is also relevant. For a person of

17 years at the time of the murder, the starting point set down in these circumstances by paragraph 5A is 23 years.

29. These are however starting points only, and I must then factor in the particular circumstances of this offending, and consider culpability and thus the seriousness of the offending in respect of each of you in order to arrive at a just figure for the final sentence.

30. You two were drug dealing together and committed these offences together as I have said. You Choudhury plainly had the intent that the knife be available to be used as a weapon and intended that and you were acting as a team, together. However, given that you Umer Choudhury are only 4 months older than Mr Nibeel I do not believe that different starting points are appropriate in this case, and to be rigid would be an injustice.

Starting point 21 years

31. Accordingly, I take as a starting point the **figure of 21 years** for each of you to reflect that Rayis Nibeel you were very close indeed to your 17th birthday and you Umer Choudhury were only just past yours. Chronological age is of course not the same as maturity and I deal with that below. Further, 21 years is only a starting point.

Consider circs together for murder and wounding

32. It is convenient to consider the relevant factors that characterise the two violent offences that night globally, given the use of the same weapon and almost simultaneous infliction of the injuries that killed Omar Khan and that wounded Cheyenne Barnes.

33. The character of the offending on that night taken as a whole, the murder of one person and the wounding of the other, was captured by Mr Hector's words as above, it was "just going mad, mental". The jury disbelieved your account Mr Nibeel that you were only acting in reasonable self-defence. Your actions and the character of them may also be judged in the light of your ordering over the previous few months of about 65 knives, some of very similar type, and also kukris, bayonets, large hunting knives, for which there

was no lawful purpose. This reflects the context of your actions, namely your close familiarity with vicious offensive weapons to assist you and others in drug dealing on the streets. I am sure you had the intent to kill Mr Khan, shared by Mr Choudhury. A thrust to the chest with a knife of the sort carried that night, coupled with further knifing injuries on him, including his defensive injuries, make me sure of that. I am also sure you were deeply upset, humiliated indeed that you had been told by Umer Choudhury to throw down the drugs for Omar Khan - which he had demanded without paying you for them, and, driven by fury, you intended to kill him. The vengeful aspect aggravates the offences - the drugs had been taken, your violence Ravis Nibeel was driven by anger and spite. You lashed out at Cheyenne Barnes in a similar way.

Nibeel Aggravation and Mitigation

34. Aggravation, or factors increasing the seriousness, (aside from taking the knife which is already accounted for by Parliament in the starting point) to be taken into account are the fact that having inflicted the grievous wounds on Cheyenne and Omar, you fled the scene. You discarded the knife, it has never been found only, and clearly by accident, the sheath was dropped at the scene.
35. However, as I have indicated earlier the infliction of the wounding on Cheyenne Barnes represents a real aggravation of the circumstances of the murder. It affects your overall culpability (as in the case of *R v SK* [2022]EWCA Crim 1421). This must be reflected in the minimum sentence. To a lesser degree the drugs offence also aggravates the position.
36. There are no previous matters in your history that come close to the seriousness of the current offences of murder and wounding. You had been sentenced to a Referral Order for 8 months by Luton Youth Court on 7th February 2023 for an offence of Burglary other than dwelling with intent to steal. You were returned to court on 25th July 2023 for breach of the order and sentenced to a two-month extension. Engagement during the Order was limited, you say because of pressure from those around you. It was not

completed in any event, because you were remanded into custody on the current offences.

37. It is true the victims did not intend to pay for the drugs and Mr Khan's weapon was visible, and he was a lot older than you. However, none of this justifies or diminishes the seriousness of what you did to him and to Cheyenne Barnes. It provides only a little by way of mitigation: the demand for drugs without payment acted as an element of some provocation. You have claimed to have been acting in fear, even if not amounting to self-defence, but I do not accept that. I am sure given your shout of "*who do you think you are*", your frenzied attack on Omar Khan as he was leaving the area, that you acted out of anger, not fear. I accept however, that in light of your personal circumstances, Rayis Nibeel, there are certain personal elements which serve to diminish your culpability to an extent.
38. You are a young person with an unfortunate family background. In 2019, when you were aged 13-14, about the time you became involved with drugs, your father Mr Saghir Nibeel was arrested, receiving 15 years in custody for Drugs Trafficking offences. Your uncles were involved in criminal behaviour throughout your childhood. You are described as having been groomed and exploited by older members of your community, targeted for this grooming because of your age and lack of parental supervision. You first came to social services attention when 7 years old. You became involved in gangs and drug lines and eventually were expelled from school. Luton Social Care records show you trying to buy knives in March 2021. You left school at 16 without qualifications in September 2022.
39. The Pre-Sentence Report and the materials it collates characterise you as immature with a somewhat limited mental capacity for your age. The Report and your recent ADHD assessment Report indicate you showed signs of slow development and talking delays when young; that you do not fully grasp the severity of the circumstances you are in. You are also described as glorifying criminal behaviour, enjoying its perceived status.
40. I am unable to take into account any personal regret or remorse, because you have expressed none. You have not confronted the devastating

consequences of your actions that night – your approach being that you were compelled to do it. I reflect that in custody you have been diagnosed with ADHD, hitherto untreated, which may affect your refusal or failure presently to acknowledge the gravity of your actions. I take into account your impulse control is impaired to a degree both by your immaturity as recorded in the Pre-Sentence Report, and your condition, which is expanded upon in the recent Report. These are reflected in your lashing out in fury at Omar Khan and Cheyenne Barnes. I am also sure that your maturity is below that of a 17 year old young man. This regrettably makes you far from unusual within the criminal justice system, but it is relevant to my overall assessment of you and the offence. The Youth Guideline makes clear that these factors are relevant and may diminish your culpability. In my judgement they afford a certain amount of mitigation of the offences.

Choudhury Aggravation and Mitigation

Secondary party point re murder

41. Mr Choudhury, I have considered the appropriate recognition I should give to the fact that you were not carrying the murder weapon that night, and that you did not strike the blows that killed Omar Khan and wounded Cheyenne Barnes. Indeed, there was no evidence before the jury that you were also carrying a knife. However, Rayis Nibeel took the large hunting knife that evening in order to have it available as a weapon and used that knife to murder Omar Khan, and by convicting you for having joint possession of the knife and of murder the jury must have been sure that you were aware that Rayis Nibeel was carrying a knife, and that you encouraged or assisted him, intending that he would use it as he did. As was said by the Court of Appeal in *Sanchez* [2008] EWCA Crim 2936, the approach of a court to a sentence of life imprisonment for murder is governed by the provisions of Schedule 21 whether the offender is a principal or a secondary offender. Although the culpability of the secondary party may in many cases be less than that of the principal, the sentences must be viewed proportionately in the light of the policy of the law that someone who encourages or assists with the commission of murder is to be dealt with as a murderer.

42. However, I have the advantage of having heard the evidence in the trial, and I am satisfied that a slight reduction should be made for the fact that you were a secondary party rather than a principal offender. In cases concerning multiple offenders, before Paragraph 4 of Schedule 21 can be applied, the Court will need to be satisfied you were aware the knife was being taken to the scene and that you shared the required intention, that is an intent that the knife be available to use as a weapon or be used to commit an offence (see *R v Kelly* [2011] EWCA Crim 1462 and *R v Beni Nami* [2021] EWCA Crim 513). As I have set out, I am sure of that.
43. I also accept that there was a point at which you told Rayis Nibeel to throw the drugs down. However, as matters developed, I am also sure that you were thereafter coolly encouraging him in his unbridled aggression. The fact you gave a further instruction to him uttering the words “*lay her down*” etc after Cheyenne was stabbed is neither here nor there in the heat of that moment - she managed to escape from further violence only by good fortune, jumping down the stairs. In this context I cannot regard your instruction to throw down the drugs as being heavily significant in your favour.
44. As to previous criminal involvement, on 24th April 2023 you were arrested in The Parade, Sundon Park Road searched, and found to be in possession of a black machete-type knife in a sheath inside your waistband. On 16th May 2023 you pleaded guilty to possession of a bladed article in a public place and received a Referral Order but did not engage with the Order. Forty Eight wraps of crack cocaine and 15 wraps of diamorphine and £115 in cash was also found on you but no charge in relation to the drugs offences. There had previously been an arrest in 2021 for possession with intent to supply and carrying a weapon. The 2023 offence is relevant to the context of the current matters and an aggravating feature; the current offences however represent a serious escalation of previous behaviour.
45. I also must take into account as aggravation of the murder the fact of the wounding offence and the drugs. For the reasons given, this offending aggravated the murder of Omar Khan and must be taken into account in the minimum term.

46. I take into account in your favour the same factors as with Rayis Nibeel, to the effect that this murder and wounding was not a crime that was planned. Unhappily, Umer Choudhury, there are also significant features of your own background that are of relevance in the same way as for Rayis Nibeel, and I take them into account as a mitigating feature when considering your culpability. Your natural father died when you were very young nonetheless, you do have the considerable benefit of a stable home life and good relationship with your supportive and concerned mother and stepfather. In spite of that you have been a cause of significant concern to the authorities. You have been on numerous Social Services plans over the last 3 years, after multiple episodes of gang exploitation, seeking to protect you and family members from further exploitation. You similarly left school without qualifications in 2022. You also have an as yet unparticularised learning difficulty. I accept you have an appreciation of the impact on the victims' families.
47. Your long-standing exploitation has been explained in the Pre-Sentence Reports and significantly, you have received a final conclusive grounds decision from the NRM regarding your exploitation as child following a submission to them in 2021. There have been multi-agency referrals and child-protection activity in respect of you over the years. The Pre-Sentence Report describes you as having been exploited into a world where criminal behaviour is normalised, and weapons carried as protection. You have been fearful of repercussions particularly; it is said that, as is regrettably commonplace, you have incurred significant drugs debt and were dealing in drugs without payment, to buy off the debt as a result. You have twice been the victim of knife violence as a result of your involvement in gang activity and exploitation. I find you too, in your adherence to the gang culture, are immature for your years.
48. In respect of both of you I bear well in mind you are young, and the effect of custody is that much more severe upon you. Likewise, it is hoped and expected that you will in time grow and mature to greater understanding. I note in respect of both of you therefore both immaturity and youth. I also

note there is engagement of both as to education. Perhaps for each of you this will prove an opportunity.

SENTENCES

For the Murder of Omar Khan

49. The wounding of Cheyenne Barnes was a serious aggravating feature of the activity of that night in September 2023. Likewise, the context was drug supply, another feature of aggravation. This affects both of you as does the fact that you each had some previous involvement with crime in the form of Referral Orders and involvement with knives and drugs as set out.
50. In each case this involves a not insignificant aggravation of the 21 year starting point.
51. In your case **Rayis Nibeel**, the aggravating features of the offence set out and the fact of the additional wounding of Cheyenne and the associated drugs offences are sufficient to take the figure when aggravated by the relevant factors to 24 years' detention. However, and importantly, it is clear to me that not only are you young, but you are immature, and you also have a learning disability as set out; it is of some significance to the offences, and linked to their impulsive reactive nature. Your ADHD is linked to that impulsiveness and lack of control, and I take it into account with other mitigating factors, including your NRM matters. This, in combination with your personal circumstances, set out in detail above, and bearing in mind totality, take the figure to the **20 years** as a minimum term. Accordingly, the **sentence for the murder of Omar Khan is 20 years detention at his Majesty's pleasure**, subject to calculation of time on reman which I shall do in a moment.
52. Umer Choudhury, in your case, the context of the wounding and drugs offences applies also in your case, as does the aggravation of previous drugs and weapons involvement in criminal justice. That takes the figure in your case up to 23 years accounting for aggravation. However, I must reflect the fact that you did not yourself carry the weapon and at one point told Rayis

Nibeel it was not worth it, and to just give them the drugs, and in addition, I have had careful regard to totality in your case and your own personal mitigation, including the detailed exploitation and conclusive NRM history. I therefore put the final appropriate minimum term for your Umer Choudary at **18 years. In your case the appropriate sentence is 18 years detention at his Majesty's Pleasure for the murder of Omar Khan** subject to the same calculation presently.

Wounding of Cheyenne Barnes

53. The wounding of Cheyenne Barnes was a separate and a horrific and distressing attack. Its effect upon the victim should not be underestimated. It has in the use of the highly dangerous weapon, the large knife, a feature that puts it into category A, high culpability within the specific offence Guideline. In terms of harm, it is by virtue of the offence already recognised as really serious harm. In this case the effect upon Cheyenne Barnes has been the infliction of a permanent injury to her hand and arm. It has impaired her in day to day tasks and continues to do so although very fortunately it is not of the gravest injuries that are sometimes seen. In my judgement it comes at the bottom of category 1 which has a starting point of 12 years' custody for an adult with a range of 10 to 16 years custody for an adult offender.

54. The aggravating features, including the previous convictions and the mitigating features, including personal circumstances of you Rayis Nibeel and Umer Choudhury as set out in the circumstances relating to the murder apply also to the offence of wounding.

Rayis Nibeel - Wounding

55. Rayis Nibeel, sentencing you for this offence as a 17 year old, by reference to paragraph 6.46 of the Youth Guideline, the appropriate sentence is **7 ½ years detention** to run concurrently; I take as a starting point approximately two thirds of the adult 12 year starting point namely 8 years, this reflects the seriousness of the offence, adding a year for the aggravation of previous

criminal activity, taking the sentence to 9 years, reduced to 7 ½ years to reflect the circumstances of mitigation set out above.

Umer Choudhury - Wounding

56. Umer Choudhury, on the same basis, it would be 6 ½ years' detention to run concurrently. I take a starting point of 7 years, adding a year for the aggravating factor of your previous convictions, and reducing that figure of 8 years by 1 ½ years to 6 ½ for the mitigating features of your case set out elsewhere.

Drugs

57. I am required to sentence you Rayis Nibeel for being concerned in the supply of cocaine and heroin. I am required to sentence you Umer Choudhury for being concerned in the supply of cocaine, heroin and cannabis. Offences contrary to section 4(3)(b) of the Misuse of Drugs Act 1971.

Nibeel - drugs

58. On 20th September 2023 police searched your home address Rayis Nibeel' and seized wraps of crack cocaine worth almost £250; crack cannabis deals worth £15 and further cannabis worth £460. Cannabis resin and 4 blue deal bags with phone numbers inside and scales were also found.

Choudhury - drugs

59. Umer Choudhury on 22nd September 2023 police searched your home and seized Cannabis resin worth £10 from your bedroom; herbal cannabis worth up to £30. They found £50 in cash your jumper and a further £195 in cash in your bedroom.

The character of the drugs offending

60. In both cases these were quantities of drugs that were sold direct to drugs users and your roles were in my judgement significant. You were engaged in the business of drug dealing as a way of life and for profit. Your phone

contacts and histories demonstrate your awareness of the operation. The sums made referred to in evidence by Rayis Nibeel were not insubstantial and funded a relatively luxurious lifestyle for a 17 year old. The previous involvement of you both including the Referral Order aggravates the offending and this was not the first occasion of drugs involvement, including in connection with weapons by you Umer Choudhury.

61. Credit to a very small extent should be allowed for last minute guilty pleas - Rayis Nibeel yours came on 9th February, a month before trial, Umer Choudhury you pleaded guilty to these offences on the day of trial.
62. The relevant guideline for adult offenders after trial gives a sentence starting point after trial for this category of offending of 4 years 6 months custody, with a range of 3 years 6 months to 7 years in respect of the Class A drugs. For Class B the figures have a starting point of 1 year and a range of 26 weeks to 3 years. In this case, looking globally at the offending, taking into account the matters in mitigation and the late guilty pleas the appropriate sentence, taking account of your ages, is :-
- a. In respect of you Rayis Nibeel in respect of Class A drugs is **2 years** to run concurrently,
 - b. In respect of you Umer Choudhury in respect of class A drugs, **2 years** to run concurrently.
 - c. In respect of you Umer Choudhury in respect of class B drugs, **9 months**, to run concurrently

Bladed Article - Count 3

63. In respect of possession of the knife, no separate penalty is imposed.

RAYIS NIBEEL, PLEASE STAND UP:

64. For the offence of the Murder of Omar Khan under Count 1 I sentence you to 20 years detention at His Majesty's pleasure **less the period of 238 days** you have already spent in custody namely 19 years and 127 days.

R v Nibeel and Choudhury
The Hon Mrs Justice Foster DBE
17 May 2024

65. For the offence of wounding of Cheyenne Barnes under Count 2 I sentence you to 7½ years to run concurrently.

66. For Drugs offences under Counts 4 and 5 I sentence you to 2 years to run concurrently.

67. For Possession of a bladed article under Count 3 there is **no separate penalty**.

68. You must note, after you have served the minimum term you will only be released when the Parole Board decides it is safe to do so. You will then remain on licence for the rest of your life and be liable to recall if you commit or breach the conditions of your licence any further offence.

Rayis Nibeel you may sit down

UMER CHOUDHURY, PLEASE STAND UP.

69. For the offence of the Murder of Omar Khan under Count 1 I sentence you to 18 years detention at His Majesty's pleasure less the period of 232 days you have spent in custody already namely 17 years and 133 days..

70. For the offence of wounding of Cheyenne Barnes under Count 2 I sentence you to 6 1/2 years to run concurrently

71. For Drugs offences under Counts 4 and 5 I sentence you to 2 years to run concurrently

72. For Drugs offences under Count 6 I sentence you to 9 months to run concurrently

73. For Possession of a Bladed Article under Count 3 there is no separate penalty.

74. You must note, after you have served the minimum term you will only be released when the Parole Board decides it is safe to do so. You will then remain on licence for the rest of your life and be liable to recall if you commit or breach the conditions of your licence any further offence.

Umer Choudhury you may sit down.

75.I order the forfeiture and destruction of all drugs, drugs paraphernalia and phones seized in connection with this case.

76.I order forfeiture of the sum of £245 seized from Umer Choudhury's bedroom.

77.It remains for me to thank all Counsel involved for their diligence on behalf of their clients, the teams sitting behind them and all those supporting them in Court, the CPS and the work done by the Police both here today and all those in Guildford Crown Court.