CENTRAL CRIMINAL COURT

His Honour Judge Leonard KC

SENTENCE OF JAMES HARDING AND JAYES KHAROUTI: 26th JUNE 2025

1. Jayes Kharouti, you pleaded guilty to conspiracy to import cocaine when the indictment was put to you on 8th November 2024. It is argued that you are entitled to a reduction of one-third in your sentence because you entered your plea without equivocation about the admissibility of the EncroChat material. As the Court of Appeal [Criminal Division] have recently restated in R. v. Cassidy and Ahmed [2025] EWCA Crim 700 at §47:

> "We do not consider that it was necessary for the EncroChat evidence to be ruled admissible by either the trial judge, or indeed any higher court, in order for the appellants "to understand whether [they] were in fact and law guilty of the offences charged".

2. You did not notify your pleas of guilty in advance of the hearing on 8th November and it does not require a consultation with King's Counsel for you to know whether you were guilty of the conspiracy to import cocaine. You are entitled to a reduction of 25% in your sentence on that count and I shall increase that to 30% in the particular circumstances of this case. Both you and James Harding contested the charge of conspiracy to murder and Harding contested the charge of conspiracy to import cocaine.

3. I deal first with the conspiracy to import cocaine. As I said when sentencing others on the same charge, it is hard to comprehend that the quantity of cocaine that the EncroChat messages revealed was imported, or was about to be imported, in only a period of approximately 2½ months. Those messages, as I stated when sentencing your co-defendants detail somewhere in the region of 1,000kgs of cocaine being imported and then distributed in smaller quantities throughout the country. The street value of that amount of cocaine is in excess of £30 million and the profit on such quantities would have been very substantial. Without the benefit of EncroChat your scale of offending would never have been apparent.

4. It is on that quantity that I sentence you but it was clear from the EncroChat messages and from your evidence, Kharouti, that you had been involved in the importation and distribution of drugs for a very much longer period and on a scale that is unimaginable. At one point you. Kharouti, said that the

organisation of which you were a part had imported 2.6 tonnes of cocaine. The only relevance of that longer period is to identify the obvious: your drug trading did not start on the first day that the EncroChat messages were successfully obtained.

5. Kharouti, your sentence will reflect the approximate quantity of cocaine that you were dealing with during the period of the indictment and which is less than the total amount imported by the organisation during the indictment period. I accept that there is the possibility for error on the schedules which assess the quantities imported due to exaggeration in the messages but I found the evidence that you gave when shown Ex 1 p.64 #2447 in which you told "Ibuyanything" that you “last year moved 2.6 tonne”. You agreed that that would amount to about 50kg a week which was the figure arrived at by DC Willis in respect of the indictment period.

6. I have also noted that, when you were shown a bank statement which identified ten credits from "Besttops" between 14th May and 9th June, which is less than a month and which totalled just under £1,038,000. You told the jury that you were not sure that this in fact related to you because you would have been responsible for a greater amount than that. Your rôle was very significant in the distribution of the cocaine and you were very close to the actual importation.

7. That you were able to conduct your business at arms length, never handling the cocaine or the money yourself is testimony to your seniority within the organisation. You had a close relationship with Harding and I suspect that you would have spent much longer than two months in Dubai had you not needed to return to the UK to see your grandfather and, having returned to the UK, were stuck here because of Covid.

8. The prosecution described you as Harding’s righthand man. I have listened to the submissions made on your behalf but have nevertheless concluded so that I am sure that that was your rôle. The leading and central rôle you took in organising the murder of Cryp’s driver provides further evidence as to how Harding relied upon you. I have reviewed my sentencing remarks in respect of Crump, Ahmed and Thompson and I note that I gave full weight to Thompson’s rôle. However, having heard the evidence in the first trial and in your trial, I consider that your rôle is far more central to the operation to that of Thompson.

9. Having considered the Sentencing Council’s Definitive Guidelines for importation, I have no doubt that you fall into a leading rôle having regard to the fact that you were directing or organising the buying and selling of cocaine on a commercial scale; that you had substantial links to and influence on others in a chain; you had close links to the original source, and an expectation of substantial financial or other advantage.

10. Your rôle, Harding, is not only obvious from the handle you adopted on EncroChat, which was "Thetopsking" but also from the contents of the countless messages on EncroChat as well as your obvious wealth. You lived in luxury in Dubai both in terms of your accommodation and also in respect of the holidays you took and the cars, in particular a Bugatti Chiron and a Lamborghini, which cost millions of dollars and which you owned or leased and drove.

11. Whether there was anyone more senior than you in this organisation I am unable to say and it does not matter because on any view you are at the top or very close to the top of the organisation responsible for the importation of very large quantities of cocaine.

12. That you both fall within the same level of culpability does not mean that you will receive the same sentence because it is possible to differentiate between you both in terms or rôle and in the quantity of drugs which you were responsible for.

13. As to harm, Category 1 is for indicative amounts of 5kg giving a starting point of 14 years' imprisonment. I am dealing with a figure 100 to 200 times higher and, as the guidelines and subsequent decisions of the Court of Appeal [Criminal Division] indicate, where the operation is on the most serious and commercial scale, involving a quantity of drugs significantly higher than category 1, sentences above 20 years and even above 30 years' may be appropriate, depending on the offender's role.

14. As to aggravating features you, Harding had only been out of prison for 4 years at the time of your offending as covered by the indictment, having served a sentence of 9 years' and 8 months' for playing what the judge found to be a leading rôle in respect of the importation of a Class B drug, namely, Methcathinone and other related offences. The only conclusion I can reach is that you decided after your release from prison to trade up from a Class B drug to a Class A drug which would reap greater rewards. This is, in my judgment, a serious aggravating feature.

15. You, Kharouti have previous convictions for supplying cocaine in 2007 and again in 2008 and supplying cannabis in 2016. Both their age and their nature mean that, whilst I cannot treat you as someone of good character, they will not affect the sentence which I will impose.

16. An aggravating feature common to both of you is the use of EncroChat which was a sophisticated technology by which you hoped to avoid detection.

17. In respect of the conspiracy to murder I find that there is no reasonable way to distinguish between your rôles. I accept that it was your idea, Harding, to kill Cryp's driver. The purpose in doing so was to steal a consignment of cocaine and thus recoup the losses which were being inflicted on you by the police who were using the information from the EncroChat messages to selectively intercept shipments of cocaine and drugs' money. In order to carry it out without being detected as being responsible for taking what was probably going to be 80kg of cocaine, you decided that you had to kill the driver.

18. Whilst you flirted with an alternative plan, by the end of the period and leading up 13th June 2020 when you were all told that EncroChat had been breached, you had returned to the original plan to kill the driver. I judge that, had the breach message not gone out, your plans which were well advanced involving the collection of two and possibly three guns, of at least one shooter, and of a car in which the shooter could get to and from where the hit was to take place, would have come to fruition; this was a genuine plan to kill someone. You, Kharouti, were central to the organisation of the hit.

19. The prosecution's sentencing note sets out the high degree of planning that was undertaken over a period of over two months and I do not intend to reproduce that history further in my sentencing remarks.

20. There are no sentencing guidelines for conspiracy to murder. I agree with the prosecution that I should have regard to Schedule 21 of the Sentencing Act in respect of the full offence of murder where a gun was used and where it was a murder for gain, which would result in a uplift from the starting point of 30 years', and to the guidelines for attempted murder. I agree that, the starting point for attempted murder is lower than that for the full offence and set at 25 years with a range up to 30 years, that the aggravating features in a case such as this will take the appropriate sentence above the category range. In short it would bring the substantive sentence under the attempted murder guidelines in conformity with that applicable under Schedule 21 as a minimum term to be served before parole is considered for murder.

21. One thing that cannot, and does not, affect the sentence I impose on you, Harding, is the way that you have defended yourself. You are entitled to do anything to seek to secure your acquittal. The lengths to which you went, in particular fighting over more than 3 years the admissibility of the EncroChat messages, neither informing the court or prosecution what your defence was, and then, within weeks of when this trial was due to start in 2024, providing the contents of a phone which was somehow recovered from the spare wheel compartment in a boot of a BMW parked in a garage in Dubai, were extraordinary.

22. The money which has been expended obtaining experts reports and in creating a complete set of over 800 messages on that recovered phone to try to trick the jury into believing you were not the "Thetopsking" must run to hundreds, if not millions, of pounds.

23. You, Harding, are 34 years' old. The following matters are urged on your behalf, that you have no prior history of violent offending; and the difficulties you faced in early childhood and during adolescence in particular with reconstructive surgery to your face. I also take into account that you are a man of ability, ability which you turned in completely the wrong direction.

24. You, Kharouti, are 39 years' old. The following matters are urged on your behalf, that you have no real history of violent offending or serious drug offending, and that you have six children aged between 3 and 16.

25. Before considering the appropriate sentences I have to consider whether you fall to be dealt with under the dangerousness provisions and, if so, whether a life sentence is appropriate. I have considered fully the arguments advanced on behalf of each of you and I have in mind that a life sentence is truly a sentence of last resort.

26. In respect of the charge of conspiracy to murder coupled with the conspiracy to import cocaine, I find that there is a significant risk that you will commit further specified offences; and by doing so you will cause serious physical or psychological harm to one or more people.

27. In reaching that conclusion I do so on the facts revealed by the EncroChat messages and, for instance, that you were able to obtain up to three handguns

for the enterprise. I also have regard to the fact when you, Kharouti, gave evidence you admitted that drugs and violence often go hand in hand.

28. I have looked at the messages in respect of both of you which fall outside the ambit of preparing to kill Cryp's driver but which show a predisposition to violent behaviour to keep those within the drugs' organisation compliant and to ensure that they were unlikely to talk to the police. You, Kharouti, messaged about what would happen to anyone who was to tell the police about what the enterprise was about, including that you would arrange to get a prisoner's head bust open if he talked to the police, and you, Harding, messaged "Gustavogaviria" on what seems to be the same subject, "bro u just have to know where their nan lives. They all love their nan's. Then when they act up they know granny gonna get one in the head lol. Keeps them in check", a message which can be found at Ex 1 p56 #2057. Whether or not you would have carried out your threat, that message identifies a predisposition to violence.

29. I also take into account that you were aware of the Osman warnings which had been given by the police but which did not dissuade you from continuing to plan a murder.

30. I also have regard in respect of you, Harding, your antecedent history for drugs offending.

31. Whilst your behaviour in respect of the way that you, Harding, have conducted your defence and you, Kharouti, fled the jurisdiction does not affect the length of the sentence I impose, they are matters which I can take into account in deciding whether the dangerousness provisions apply, and I do take them into account.

32. I then have to consider whether taking the offence of conspiracy to murder together with the conspiracy to import cocaine of which you have also been found guilty justifies a sentence of imprisonment for life. Together with my conclusion that an extended determinate sentence is not sufficient to protect the public from the significant on-going risk which you both pose, I consider that I must impose a life sentence in each of your cases.

33. As to the form of sentences I will impose I intend to pass a life sentence on the charge of conspiracy to murder and a determinate sentence on the charge of conspiracy to import cocaine which will run concurrently. There will be an uplift in the minimum term on the conspiracy to murder to reflect your offending on the charge of conspiracy to import cocaine whilst reducing that increase with totality in mind.

34. In respect of the life sentence it is most important that you and everyone concerned with this case should understand what this means. The minimum term is not a fixed term after which you will automatically be released but is the term that must be served before the Parole Board can undertake their first review of the case. They will review the risk that you then present and will consider whether you can properly be released from custody subject to licence at that stage and if so on what terms.

35. If and when you are released, you will be subject to licence; and this will remain the case for the rest of your life. If for any reason your licence is revoked, you will be recalled to prison to continue to serve your life sentence in custody. It

follows that unless and until the Parole Board consider that your release is appropriate then you will remain in custody.

36. I have to calculate the time that you have spent awaiting extradition and on remand based on the information I have been provided. Before prosecution and defence counsel leave court they are either to agree that the calculation is correct or they must inform the clerk and I will return into court to correct the figure. If thereafter it transpires that the information which I have been provided as to the days served was inaccurate then the prosecution or defence must have the case relisted to correct the calculation as soon as possible and in any event within 56 days.

37. On Count 2, the charge of conspiracy to import cocaine, I sentence you, Harding, to a determinative term of 30 years imprisonment and you, Kharouti, to 18 years' and 9 months.

38. On Count 1, I sentence you both to life imprisonment under the dangerousness provisions having set the minimum term before you can be considered for parole.

39. As to the minimum term which you must serve: if I had been sentencing you to a determinate sentence for the conspiracy to murder, taking account of all the aggravating and mitigating factors in this case, after a trial I would have sentenced you both to a substantive term of 32 years' imprisonment before making an uplift to reflect your offending on count 2.

40. That figure I increase in your case, Harding, to 48 years and in your case, Kharouti, to 39 years, and having reduced the minimum terms to reflect totality.

41. Because you would have served up to two thirds of that sentence in custody, I fix the minimum term which you will serve at two-thirds of those figures, in your case, Harding, to 32 years', and in your case Kharouti, to 26 years'.

42. Finally, I reduce those minimum terms by the number of days which you have spent awaiting extradition and on remand in custody. In your case, Harding, that is a period of 152 days awaiting extradition and 1,125 days in custody making a total of 1,277 days. This means that the minimum term which you will serve before the Parole Board may consider your possible release is one of 28 years' and 183 days.

43. In your case, Kharouti, that is a period of 582 days awaiting extradition and 365 days in custody making a total of 947 days. This means that the minimum term which you will serve before the Parole Board may consider your possible release is one of 23 years' and 148 days.