

At approximately 8:4 in the evening on 9 March 2024, the complainant, [name suppressed], who was 25 at the time, commenced his work as an Uber driver. At about 2:31 the following morning he received a notification for a pickup in Howrah. At about 2:38am he arrived at the pickup location and the defendant, KTBC, then aged 16, and two other males entered the complainant's car.

The males told the complainant to drive to [address suppressed]. On arrival all three passengers exited the vehicle but KTBC re-entered the car, half-sitting on the passenger seat with the door open. The other two males stood next to the door. KTBC asked to be driven into town. The complainant replied that he could do that if KTBC entered his destination in the Uber app. KTBC then reached into the centre console of the car and pulled the contents out and then pulled the contents out of the glove box. He reached into his shoulder bag and pulled out a knife. He said to the complainant, *"give me your cash or I will stab you"*.

The complainant informed KTBC that he did not have any money because he was driving for Uber. KTBC again went through the centre console and glove box. He told the complainant to step out of the car and KTBC then walked around to the driver's side door and continued to search. He told the complainant to show him his pockets. The complainant complied, but the pockets were empty.

The complainant offered to open the boot for KTBC to continue searching the car and he did so. He opened the boot by pressing the button next to the driver's side door, and KTBC and the other two other males walked to the rear of the vehicle. Once KTBC had moved away from the driver's door, the complainant re-entered the driver's seat and drove off.

KTBC was later arrested and charged and detained for court. He pleaded guilty to a charge of attempted aggravated armed robbery on 1 August 2024 at his second only appearance in this Court. I regard this as an early plea of guilty.

KTBC has been in custody since his arrest on 11 March 2024, however not all of that time is unallocated. On 5 July 2024, he was sentenced in the Magistrates Court (Youth Justice Division) to a sentence including six months' detention, backdated to when he came into custody, with three months suspended for 18 months. He has been in custody on this matter alone since 11 June 2024.

KTBC's familial support is his grandfather, who is present in Court today, and he intends on his release to return to his Grandfather to live. His grandfather is, thankfully, supportive, he has regularly attended court, I am told, over the years and is disapproving of KTBC's drug use and offending, as might be expected.

KTBC receives a Centrelink allowance when in the community but he has also recently completed an NDIS application, after undertaking a PATCHES assessment for Foetal Alcohol Syndrome Disorder.

Case management at Ashley Youth Detention Centre have said that he looks set to be able to obtain a package and is in the process of arranging an Occupational Therapy assessment which would assist him with NDIS and housing.

KTBC's childhood was one of deprivation and neglect, which has been intergenerational in his family. The Youth Justice pre-sentence report I have received details his childhood and notes an extensive history of Child Safety involvement beginning when KTBC was a baby, for reasons including family violence, drug use, neglect and physical abuse.

KTBC was raised by his paternal Great Grandmother and tells his lawyer that he experienced great grief at her death when he was only 10 years old. His Grandfather has been the main family support for KTBC and his younger sister.

Though this is KTBC's first matter to be dealt with in this Court, he has a lengthy history of offending associated with illicit drug use, in particular methyl amphetamines, and has had the benefit of a full range of sentencing options for his many offences.

His first entry to Ashley Youth Detention Centre was in July 2020 when he was 13 years old. Up to July 2023, the longest consecutive period he spent in the community was 67 days and he was out of custody for a total of 283 days in this period, establishing that he can spend time out of custody without being a danger to the community, free of offending and free, it would seem, of drug use as well.

Over the last four years at the Ashley Youth Detention Centre KTBC has experienced restrictions related to COVID-19, significant staffing and operational difficulties, and the consequent "lockdowns", which are a result of those things.

KTBC's last period of Detention ended on 13 July 2023. Following this he spent eight months in the community, which was significantly longer than any previous period and he was able to achieve some stability and demonstrate a capacity for rehabilitation. However, consistent with his previous pattern, KTBC relapsed into methyl amphetamine use shortly after his release and was associating with adults with whom he was offending. KTBC was convicted of some of those offences and was bailed. The adult co-accused were not bailed and this gave him the opportunity to separate himself from that group and from drug use.

It was around that time that KTBC began his relationship with his girlfriend and moved in to live with her and her family. During this period, KTBC successfully engaged with Youth Justice and completed a six month supervised release order without returning to custody. He completed all of his outstanding Community Service Orders by attending education at T4 and undertaking activities with the Youth Justice Community Service team.

KTBC committed two comparatively less serious offences in October 2023. One was an aggravated burglary, again in the company of adults. The other was a lower level shoplifting offence.

KTBC has told his lawyer that although he committed the two offences in October, he was making a considerable effort not to use drugs or offend and to engage with Youth Justice. Given the frequency and seriousness of his offending in the past, and his prior lack of engagement with Youth Justice, this was a period of relative stability and demonstrated that KTBC does have the capacity to engage with support, stay away from drugs and not offend.

KTBC's father was then involved in a motorcycle accident in mid-January 2024. He was hospitalised and in a coma which was very confronting and upsetting for KTBC, as one might understand. He instructs that he could not cope with his father being in a coma and unlikely to recover, and he returned to heavy and consistent methyl amphetamine use which gave rise to

the offences in the two month period up until his return to custody, including the present offence.

KTBC was heavily affected by methyl amphetamine when he committed the present offence. He can only remember the offending vaguely and cannot remember what his thought process or motivation was at the time. He feels remorseful for the offending. He has been reflecting on the impact on the victim and understands that the victim would have felt threatened, unsafe and may have been worried about going back to work.

He has found the current period in custody very difficult. His father did die a few days after his remand and although KTBC was able to attend the funeral, he has struggled with the subsequent separation. His time in custody has not been pleasant for him. He is however feeling a positive effect from the anti-psychotic, anti-depressant and sleeping medication he has been prescribed in custody. He says that the medications make him less stressed and paranoid and more calm. He hopes that he can continue this medication on release and that will help him to stay off drugs.

I have received a Youth Justice report which recommends a period of suspended detention. While this puzzled me at first, upon carefully considering the chronology set out by KTBC's lawyer in his written submissions, it appears obvious to me, given the chronology, why Youth Justice would make the recommendation it does of suspended detention, and I see no reason to depart from the Youth Justice recommendation.

Taking into account the time KTBC has spent in custody since 11 June 2024, he is convicted of the crime of attempted aggravated armed robbery and pursuant to s 47(2)(a) of the *Youth Justice Act* (1997), I impose a 10 month detention order, suspended immediately on condition that for 12 months KTBC does not commit any offence which, if committed by an adult, would be punishable by a sentence of imprisonment.

In addition I make a community correction order with an operational period of 12 months with a condition that KTBC undertake within that time 49 hours of community service.