

## **Legal Analysis of Criminal Conspiracy in Class I Narcotics Crimes Not Plants and the Imposition of Criminal Sentences by Judges Study of Decision Number 23/Pid.Sus/2025/PN Ban**

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**Abstract.** *This research is entitled "Juridical Analysis of Criminal Conspiracy in Class I Non-Plant Narcotics Crimes and the Imposition of Criminal Sentences by Judges: Case Study of Decision Number 23/Pid.Sus/2025/PN Bantaeng." This research uses a normative legal research method, which focuses on applicable positive legal norms. The primary focus of normative legal research is analyzing relevant laws, doctrines, and court decisions to identify principles, rules, and legal constructions that can address the issues under study. Criminal conspiracy in the crime of class I narcotics, not plants, according to positive Indonesian law is regulated in Article 132 paragraph (1) of Law Number 35 of 2009 concerning Narcotics. Criminal conspiracy is seen as a stand-alone crime, so that even though the narcotics crime has not been carried out, an agreement between two or more people to carry out illegal narcotics trafficking is sufficient to ensnare the perpetrator with criminal sanctions.*

**Keywords:** *Conspiracy; Crimes; Criminal; Narcotics.*

### **1. Introduction**

In the era of globalization, narcotics crimes also show cross-border characteristics. (*transnational crime*), where the distribution network covers more than one legal jurisdiction. The organizational structure of narcotics criminals is very systematic with a strict division of roles. between producers, distributors, and field actors such as couriers or financiers<sup>1</sup>. The impact is multidimensional, namely destroying the social system, reducing the quality of human resources, and weakening national resilience as a whole.

The importance of the effectiveness of Law Number 35 of 2009 concerning Narcotics is not only in its repressive aspect, but also in its implementation which is evidence-based and upholds principles justice. In this context, Wahyuningsih and Hafidz (2021) emphasize the importance of the principle of *ultimate*

*ratio*, where criminal law should be used as a last resort if preventive measures fail and rehabilitation is no longer adequate<sup>3</sup>. Therefore, the punishment imposed must be rational and proportional, and considering the possibility of social reintegration of the perpetrator.

Evil conspiracy as a form *inchoate crime* (imperfect crime) is also known in Anglo-Saxon legal system with the *conspiracy*. In Indonesia, Article 132 paragraph (1) in conjunction with Article

Article 114 paragraph (1) of Law No. 35 of 2009 stipulates that conspiracy in narcotics crimes does not have to be accompanied by real action, sufficient evidence of an agreement between the two parties is sufficient committing a class I narcotics crime other than plants.

The important elements in this crime include an agreement between two parties, malicious intent, and the object of the crime which is legally clearly defined. The biggest challenge in proving lies in *absent actus reus*, because the proof only relies on intention and agreement. In this case, Hafidz (2020) emphasized that the evidentiary system in formal crimes must pay attention to the principle of caution and the use of valid digital evidence and does not give rise to excessive criminalization of perpetrators whose roles are marginal.

Sources of evidence of malicious intent can come from testimony, confessions, and electronic evidence. such as recordings of conversations or digital transactions. However, the judge must ensure that the confession the defendant is supported by other valid evidence so as not to conflict with the principle *non-self-incrimination* In this context, planning documents such as meeting minutes, fund transfers, and so on text message recordings can be considered as concrete indicators of the existence of criminal intent.

Advances in information technology have had a significant impact on the proof process in cases of criminal conspiracy, especially those related to narcotics crimes. One major innovation in this area is the application of digital forensic analysis, which allows Law enforcement officials track electronic communications, transaction data, and other digital footprints. as part of the construction of evidence<sup>7</sup>. However, the use of digital evidence is not free from legal challenges, especially in terms of guaranteeing the authenticity and integrity of data (data integrity) used in court<sup>8</sup>. Therefore, in assessing the validity and strength digital evidence, judges are required to refer to technical guidelines, as stated in the Circular Letter of the Supreme Court (SEMA) Number 1 of 2020 concerning Electronic Evidence, as well as relevant Supreme Court jurisprudence<sup>9</sup>. This is important to avoid mistakes in assessing evidence originating from electronic devices, especially if obtained through the process wiretapping or surveillance involving technology.

In practice, the role of the judge is very strategic in maintaining a balance between certainty and law and justice. Judges are not only tasked with applying the law formally, but also assess the social and psychological context of the accused. The minimum standard of two valid pieces of evidence as regulated in Article 183 of the Criminal Procedure Code as the main basis for deciding cases of criminal conspiracy. However, in the case of formal crimes, careful and integrative interpretation is necessary so as not to there was an error in the verdict or substantive injustice.

Finally, with a deep interpretative approach to the formal elements of the crime conspiracy, law enforcement officers, especially judges, can use the law as an instrument of recovery, not a tool of criminalization. This legal study is expected to provide contribution to strengthening criminal law doctrine and the formation of adaptive jurisprudence regarding the development of the *modus operandi* of narcotics crimes in the digital era.

Case Number 23/Pid.Sus/2025 at the Bantaeng District Court is a real example of the application the formal offense. The two defendants, Ammar Jabbar alias Ammar bin Rusdi and Asril Feri Irawan alias

Feri bin Ambo Ugi was declared legally and convincingly guilty of planning to distribute crystal methamphetamine weighing 0.1265 grams. Although the main act had not been fully carried out, the panel of judges sentenced five years imprisonment and a fine of one billion rupiah, subsidiary to one month imprisonment, shows that anticipatory policies at the planning level receive an equal share of sanctions.

The chronology of the incident began when the defendant communicated intensively via a messaging application. short with someone Inna who asked him to buy a package of crystal methamphetamine from a network outside the area. Defendant I received money from Inna, while Defendant II arranged a meeting with the courier at Bantaeng Regency area. During a search by the Bantaeng Police Narcotics Research Unit, two mobile phones were found containing conversation histories which were analyzed digitally forensically as evidence of conspiracy. Physical evidence submitted by law enforcement to the public prosecutor for the case other, but electronic evidence is considered sufficient to fulfill the formal elements of the crime.

In its considerations, the panel of judges also referred to the Supreme Court Circular: No. 4 of 2010, no. 3 of 2015, no. 1 of 2017, and No. 3 of 2023, which allows it special minimum criminal deviations in Article 114 paragraph (1) of Law no. 35/2009 if goods relatively little evidence. Nevertheless, this decision has raised debate about the limits of reasonableness judicial discretion: where is the point of proportionality between the seriousness of the criminal plan and the volume of material which the defendant has not yet

mastered Article 183 of the Book *Criminal Procedure Law* (Criminal Procedure Code) stipulates that judge's confidence can be built if there are at least two valid pieces of evidence. Tool Such valid evidence includes:

- 1) Letters (official documents, for example copies of electronic messages or agreement documents recorded);
- 2) Witness testimony (testimony of a third party who saw or heard the conversation, meeting, or the defendant's actions);
- 3) Expert testimony (e.g. analyst) *digital forensics* which explains the results of the examination *metadata* and integrity file);
- 4) The defendant's statement (confession or statement made voluntarily and without pressure);
- 5) Clues (small objects or digital traces, such as *application access log*, which leads to conclusion of the defendant's involvement);
- 6) Statements from the accused or other suspects that support each other.

In context *formal crime of conspiracy*, often physical evidence (e.g. narcotics or transaction equipment) is not yet available, because the main act has not yet been realized, then electronic evidence (*WhatsApp conversation recording*, *history* phone calls, notes *money transfer digital*) and witness statements are the main focus. To ensure the integrity of *digital forensics*, Each stage of data collection, storage and analysis must comply with procedures:

- 1) *Chain of custody* electronic devices are maintained to ensure no manipulation;
- 2) Verification *has check* sure *digital files* unchanged since the time of seizure;
- 3) Recording method *forensics* (*software*, version, and parameters) are included in the expert report;
- 4) The defendant's right to privacy is protected by limiting access and use of data to only the extent required by the trial.

Without such procedural certainty, electronic evidence is vulnerable to questioning its validity and its authenticity, thus potentially weakening the judge's confidence and ignoring the principle *due process of law*.

On the policy side, the emphasis is solely on the approach *repressive* (severe punishment for the perpetrators) is not enough to overcome the phenomenon of narcotics conspiracy. Many developed countries have adapting the combination model, namely:

- 1) Strict law enforcement against the core perpetrators of the network (*city and courier*),
- 2) Preventive approach through education and early prevention programs in schools and communities, Handling *rehabilitative* for vulnerable users, with medical-psychological services integrated,
- 3) *Social reintegration* through job training and mentoring *psycho social* post-rehabilitation.

This effort requires a study *interdisciplinary*:

- 1) *Criminology*, to understand motives, network structures, and recruitment patterns;
- 2) *Sociology of law*, to examine the impact of criminal policies on social groups prone to;
- 3) *Philosophy of law*, to formulate a theory of justice that balances *retributive justice* (revenge) and *restorative justice* (social restoration).

Only with the integration of procedurally valid evidence and comprehensive policies combining prosecution, prevention and rehabilitation in handling criminal narcotics conspiracy can run effectively, fairly and sustainably.

Based on the description above, there is a need to examine the legal dimensions of the crime in more depth *evil conspiracy* in class I narcotics crimes other than plants, the mechanism evidence in court, as well as the basis for the judge's considerations in sentencing. With Thus, it is hoped that objective parameters can be formulated for the panel of judges and recommendations a policy that balances efforts to eradicate narcotics crime and protection the defendant's human rights.

## 2. Research Methods

This research uses This research is normative legal research (*normative legal research*), namely a type of research that focuses on written legal norms as stated in laws and regulations, legal doctrine, and court decisions. Research Normative is used to examine how the law should be applied to a specific legal events, not how the law applies in social reality. In context in this case, the normative approach becomes relevant because the issues studied are related to legal interpretation to *evil conspiracy* in class I narcotics crimes other than plants based on Decision Number 23/Pid.Sus/2025/PN Bantaeng.

## 3. Result and Discussion

### **3.1. Legal construction of criminal conspiracy in class I narcotics crimes other than plants according to Indonesian positive law**

Criminal conspiracy in narcotics crimes is expressly regulated in Article 132 paragraph Law Number 35 of 2009 concerning Narcotics. Different from trials or inclusion in the Criminal Code, criminal conspiracy is seen as a stand-alone criminal act, so that even though the narcotics crime has not been fully carried out, the agreement between two people or more to carry out illegal drug trafficking is enough to ensnare the perpetrator with criminal sanctions. This shows that Indonesian positive law adheres to the principle of criminalization early warning of narcotics crimes because of their nature as extraordinary crimes (*extraordinary crime*).

1) Application of the law to criminal conspiracy in Decision Number 23/Pid.Sus/2025/PN Ban In this case, the Public Prosecutor charged the defendants with Article 114 paragraph in conjunction with Article 132 paragraph (1) of the Narcotics Law, which emphasizes the prohibition on offering, selling, buying, acting as an intermediary, or handing over narcotics, including for those who have just arrived at the consensus stage. The panel of judges then assessed that the elements of the crime had been proven, namely there was an agreement between the defendants, there was evidence of class I narcotics, not plants, as well as the existence of communication that shows the intention and joint plan to carry out narcotics distribution. Therefore, the judge declared the defendants legally and convinced of committing a criminal conspiracy to commit narcotics crimes, and imposing a sentence 5 (five) years imprisonment and a fine of IDR 1,000,000,000.00 subsidiary to 1 (one) month imprisonment.

2) The judge's legal considerations in imposing criminal penalties on perpetrators of criminal conspiracy in narcotics crimes the panel of judges considered the legal, sociological, and philosophical aspects. From this aspect juridically, it was proven that the defendants had committed a criminal conspiracy in accordance with the indictment public prosecutor. From a sociological aspect, the judge emphasized the dangers of narcotics to the younger generation. youth and social stability so that criminal penalties need to be imposed as a preventive measure. (*deterrence effect*). From a philosophical aspect, judges balance legal certainty, justice, and benefits while still taking into account mitigating factors such as the defendant's age young people, polite behavior, confession of their actions, and their regret. However, the judge also assesses that the aggravating factor in the form of the broad impact of narcotics on society cannot be ignored. Therefore, the prison sentence is imposed within a special minimum limit with a fine, in order to provide a deterrent effect as well as space for the defendants to improve themselves.

#### 4. Conclusion

Based on the results of research and legal analysis of narcotics crime cases with the legal construction of criminal conspiracy, it can be concluded that the application of criminal law by judges does not only emphasize the formal aspects of proving the elements of the crime, but also considers the values of justice, benefit, and legal certainty. The judge's considerations in imposing a sentence reflect a balance between protecting society from the dangers of narcotics and protecting the rights of the accused as a legal subject.

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