

Case Digest

Secretary for Justice v Cheng Tat Hung (鄭達鴻)

HCCP 110/2021; [2021] HKCFI 792

(Court of First Instance)

(Full text of the Court's reasons for decision in English at

https://legalref.judiciary.hk/lrs/common/search/search_result_detail_frame.jsp?DIS=134673&QS=%2B&TP=JU)

Before: Hon Toh J

Date of Hearing: 13 March 2021

Date of Reasons for Decision: 1 April 2021

Bail – conspiracy to commit subversion contrary to NSL 22(1)(3) and ss. 159A and 159C of Crimes Ordinance (Cap. 200)

1. The Respondent was charged with one count of conspiracy to commit subversion contrary to NSL 22(1)(3) and ss. 159A and 159C of the Crimes Ordinance (Cap. 200) in relation to a scheme by the Respondent and others to undermine the “proper functioning of the Legislative Council so as to paralyse the operations of the HKSAR government, eventually compelling the Chief Executive of HKSAR to resign”. The SJ applied to the Court for a review under s. 9H of the Criminal Procedure Ordinance (Cap. 221) after the Chief Magistrate had granted bail to the Respondent.

2. Held, the application refused and bail granted on the same conditions as imposed by the Chief Magistrate, after applying NSL 42(2) and the CFA's decision in *HKSAR v Lai Chee Ying* [2021] HKCFA 3. The Court, having considered all the materials before it, including the parties' submissions and the background of the Respondent, was satisfied that there were sufficient grounds for believing that the Respondent would not continue to commit acts endangering national security if bail was granted to him, thus satisfying the first of the two thresholds laid

down by the CFA in the said decision for applying NSL 42(2). The Court then considered the second threshold, and endorsed the bail conditions imposed by the Chief Magistrate to ensure that the Respondent would surrender to custody as the Court would appoint*.

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* Editor's note: The Court's reasons for decision did not set out the details of the bail conditions.