

Case Digest

Secretary for Justice v Cheung Ho Sum (張可森)

HCCP 116/2021; [2021] HKCFI 875

(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=134798&QS=%2B&TP=JU)

Before: Hon Toh J

Date of Hearing: 15 March 2021

Date of Reasons for Decision: 9 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”. SJ applied to the Court for a review of the Chief Magistrate’s decision to grant the Respondent bail.

2. Held, the application allowed and the bail revoked after applying NSL 42(2) and the CFA’s decision in *HKSAR v Lai Chee Ying* [2021] HKCFA 3. The Court had considered all the materials before it and accepted SJ’s submission that the Respondent was determined and resolute in advancing the agenda for “mutual destruction”, noting the observation by Anthea Pang J (as she then was) in *HKSAR v Lai Chee Ying* [2021] HKCFI 448, at para. 21, that “one who is determined and resolute may be more readily disposed to committing the prohibited acts

than one who is merely drifting along and lacks such enthusiasm”. Therefore, in carrying out its predictive and evaluative exercise, the Court was not satisfied that there were sufficient grounds for believing that the Respondent would not continue to commit acts endangering national security if bail was granted.

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