

## Case Digest

### HKSAR v Chui Chi Kin (徐子見)

HCCP 126/2021; [2021] HKCFI 969  
(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=135137&QS=%2B&TP=JU](https://legalref.judiciary.hk/lrs/common/search/search_result_detail_frame.jsp?DIS=135137&QS=%2B&TP=JU))

Before: Hon Toh J

Date of Hearing: 19 March 2021

Date of Reasons for Decision: 22 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 Applicant was charged with 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 Applicant 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”. Having been refused bail by the Chief Magistrate, the Applicant applied to the Court for bail under s. 9J of the Criminal Procedure Ordinance (Cap. 221).

2. Held, the application refused, after applying NSL 42(2) and the CFA's decision in *HKSAR v Lai Chee Ying* [2021] HKCFA 3. The Court carried out an evaluative and predictive assessment of all the materials before it, including the rhetoric in a video uploaded to the Applicant's personal YouTube channel on 3 July 2020, claiming (inter alia) that a large contingent of military vehicles of the People's Liberation Army equipped with signal jammers to block or obstruct freedom of the press and communication in Hong Kong had been sent to Hong Kong from the Mainland, and that this was the forerunner of an upcoming large scale military operation on a par with the June 4<sup>th</sup> movement [in 1989]. The Court considered that there were insufficient grounds for believing that the Applicant would not continue to commit

acts endangering national security if granted bail, thus failing to pass the first threshold laid down by the CFA in *HKSAR v Lai Chee Ying* [2021] HKCFA 3 for applying NSL 42(2). The Court agreed to 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”.

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