

## Case Digest

### **HKSAR v Yu Wai Ming Winnie (余慧明)**

HCCP 348/2021; [2021] HKCFI 2562

(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=138636&QS=%28hccp%7C348%2F2021%29&TP=JU](https://legalref.judiciary.hk/lrs/common/search/search_result_detail_frame.jsp?DIS=138636&QS=%28hccp%7C348%2F2021%29&TP=JU))

Before: Hon Toh J

Date of Hearing: 28 July 2021

Date of Reasons for Decision: 14 September 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 allowed, after applying NSL 42(2) and the CFA's decision in *HKSAR v Lai Chee Ying* [2021] HKCFA 3. On the first of the two thresholds laid down in that decision (namely, whether the Applicant, if granted bail, would not continue to commit acts endangering national security), the Court, following the decision of Anthea Pang J (as she then was) in *HKSAR v Lai Chee Ying* [2021] HKCFI 448, carried out “a predictive and evaluative exercise”, taking into account all materials before it (such as the absence of evidence that the Applicant ever had any international connection, the Applicant's background, her platform when running for the “35+ Primaries”, and her ultimate objective was to enter LegCo). The Court was satisfied that

with the conditions imposed for her bail<sup>\*</sup>, the Applicant would not continue to commit acts endangering national security if granted bail. As regards the second threshold, the Court considered whether she would surrender to custody at the appointed time, and was satisfied that with the bail conditions imposed by the Court, she would do so. Having considered the Applicant's background and family circumstances, the Court was of the view that the Applicant, if granted bail, would not be a flight risk and that she would not re-offend.

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