

Case Digest

HKSAR v Tam Hoi Pong (譚凱邦)

HCCP 417/2021; [2021] HKCFI 2669

(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=138827&QS=%28hccp%7C417%2F2021%29&TP=JU)

Before: Hon Toh J

Date of Hearing: 23 August 2021

Date of Reasons for Decision: 20 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 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 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 to resign”. He applied to the Court for bail under s. 9J of the Criminal Procedure Ordinance (Cap. 221) after the Chief Magistrate had refused to admit him to bail.

2. Held, refusing the application, that the Applicant failed to pass the first threshold laid down by the CFA in *HKSAR v Lai Chee Ying* [2021] HKCFA 3 for applying NSL 42(2) as the Court was not satisfied that he would not continue to commit acts endangering national security if granted bail. In making this decision, the Court took into account, inter alia, the Applicant's resolute and determined stance in resisting the NSL and the prosecution's submission that the Applicant had persistently

reiterated his stance against the Hong Kong government, the police and the NSL, and that if granted bail, he could very easily use the multiple platforms available to him to continue to offend against the NSL.

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