

Case Digest

HKSAR v Wong Pak Yu (王百羽)

HCCP 430/2021; [2021] HKCFI 2875

(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=139342&QS=%28hccp%7C430%29&TP=JU)

Before: Hon Toh J

Date of Hearing: 1 September 2021

Date of Reasons for Decision: 11 October 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 of HKSAR to resign”. The Applicant applied to the Court for bail under s.9J of the Criminal Procedure Ordinance (Cap. 221) after the Chief Magistrate’s refusal to grant him bail.

2. Held, refusing bail, that the Applicant failed to cross 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 persuaded that he would not continue to commit acts endangering national security if bail was granted. When making this decision, the Court, following the decision of Pang J (as she then was) in *HKSAR v Lai Chee Ying* [2021] HKCFI 448, carried out “a predictive and evaluative exercise” on all the available evidence before it (including the words actually used by the

Applicant, his demeanour of saying them, and the setting in which they were said), together with all the submissions and bail conditions offered.

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