

Case Digest

Secretary for Justice v Tam Man Ho Jeremy Jansen (譚文豪)

HCCP 114/2021; [2021] HKCFI 791

(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=135134&QS=%2B&TP=JU)

Before: Hon Toh J

Date of Hearing: 13 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 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”. The SJ applied to the Court for a review under s. 9H of the Criminal Procedure Ordinance (Cap. 221) after the Chief Magistrate had granted bail to the Respondent.

2. Held, the application allowed and the Respondent's bail revoked, after applying NSL 42(2) and the CFA's decision in *HKSAR v Lai Chee Ying* [2021] HKCFA 3. As decided by Anthea Pang J (as she then was) in *HKSAR v Lai Chee Ying* [2021] HKCFI 448, the Court had to carry out “a predictive and evaluative exercise” when considering whether the Respondent could pass the first threshold for bail stipulated by the CFA in the said decision. Having taken into account all the materials before it, including the parties' submissions and materials that might not be

admissible as evidence at trial, the Court was satisfied that there were no sufficient grounds for believing that the Respondent would not continue to commit acts endangering national security if granted bail. The Respondent was a key signatory of a letter to the United States Senate and United States House of Representatives dated 2 September 2019 urging the passage of the Hong Kong Human Rights and Democracy Act 2019, which, the SJ submitted, was detrimental to the HKSAR and its citizens. Further, his influence was evidenced by the many invitations from the United States Consulate General in Hong Kong inviting him to meet the United States Consul General.

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