

Case Digest

Secretary for Justice v Kwok Ka Ki (郭家麒)

HCCP 118/2021; [2021] HKCFI 862

(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=134799&QS=%2B&TP=JU)

Before: Hon Toh J

Date of Hearing: 13 March 2021

Date of Reasons for Decision: 9 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 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”. Pursuant to s. 9H of the Criminal Procedure Ordinance (Cap. 221), the SJ applied to the Court to review the Chief Magistrate’s grant of 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 was tasked with the function of evaluating all the materials in “a predictive and evaluative exercise” to determine if the Respondent could pass the first threshold for bail laid down by the CFA in the said decision. The Court did not have to consider whether the Chief Magistrate had made a mistake or was plainly wrong in his decision. Having considered all the materials before it, the parties’ submissions, and the bail conditions imposed by the Chief Magistrate, the Court considered that there were insufficient grounds for believing that the Respondent would not continue to commit

acts endangering national security if bail was granted to him.

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