

Case Digest

HKSAR v Fung Wai Kong (馮偉光)

HCCP 678/2021; [2022] HKCFI 1017
(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=143568&QS=%28hccp%7C678%2F2021%29&TP=JU)

Before: Hon Toh J

Date of Hearing: 17 December 2021

Date of Reasons for Decision: 19 April 2022

Bail – conspiracy to commit collusion with a foreign country or with external elements to endanger national security contrary to NSL 29(1)(4) and ss. 159A and 159C of Crimes Ordinance (Cap. 200) – conspiracy to print, publish, sell, offer for sale, distribute, display and/or produce seditious publications contrary to ss. 10(1)(c), 159A and 159C of Crimes Ordinance (Cap. 200)

1. The Applicant, Managing Editor of the English Apple Daily digital version, was charged with one count of “conspiracy to commit collusion with a foreign country or with external elements to endanger national security” contrary to NSL 29(1)(4) and ss. 159A and 159C of the Crimes Ordinance (Cap. 200), and one count of “conspiracy to print, publish, sell, offer for sale, distribute, display and/or produce seditious publications” contrary to ss. 10(1)(c), 159A and 159C of the Crimes Ordinance (Cap. 200). He applied to the Court for bail under s. 9J of the Criminal Procedure Ordinance (Cap. 221) after the Chief Magistrate had refused his bail.

2. Held, dismissing the application, that the Court was not satisfied that if bail was granted, the Applicant would not continue to commit acts endangering national security, taking into account, inter alia, that as the Apple Daily was still an on-going publication in Taiwan, and because of

the Applicant's influence over the years, it would be easy for him to continue to publish seditious articles using the Taiwan platform. Hence, he failed to overcome the first threshold laid down by the CFA in *HKSAR v Lai Chee Ying* [2021] HKCFA 3.

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