

Case Digest

Secretary for Justice v Wong Pik Wan (黃碧雲)

HCCP 113/2021; [2021] HKCFI 771

(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=134674&QS=%2B&TP=JU)

Before: Hon Toh J

Date of Hearing: 11 March 2021

Date of Reasons for Decision: 1 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) (“CPO”), the SJ applied to the Court to review the Chief Magistrate’s grant of bail to the Respondent.

2. Held, the application refused, after applying NSL 42(2) and the CFA’s decision in *HKSAR v Lai Chee Ying* [2021] HKCFA 3. On the first of the two thresholds laid down in that decision (namely, whether the Respondent, if granted bail, would not continue to commit acts endangering national security), the Court, following the decision of Anthea 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 materials before it including submissions of counsel, documents and videos. It was satisfied that there were insufficient grounds for believing that the Respondent would continue to commit acts endangering national security if bail was granted to her. The Court then considered the second threshold, being whether to grant bail under the

CPO. The main consideration was whether the Respondent would surrender to custody at the appointed time, having taken into account the seriousness of the offence, strengths of the evidence, and risk of absconding or re-offending. The Court was satisfied that the bail conditions imposed by the Chief Magistrate would ensure that the Respondent would surrender to custody at the appointed time*.

#373718v2B

* Editor's note: The Court's reasons for decision did not set out the details of the bail conditions.