

Case Digest

Secretary for Justice v Or Yiu Lam Ricky (柯耀林)

HCCP 119/2021; [2021] HKCFI 849

(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=134800&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) (“CPO”), the SJ applied to the Court to review the Chief Magistrate’s grant of bail to the Respondent.

2. Held, refusing the application, after applying NSL 42(2) and the CFA’s decision in *HKSAR v Lai Chee Ying* [2021] HKCFA 3. Having considered all the materials before it and the parties’ submissions, the Court held that sufficient grounds existed for believing that the Respondent would not continue to commit acts endangering national security if granted bail, thus passing the first of the two thresholds laid down by the CFA in the said decision. As to the second threshold (under the CPO), in respect of the prosecution’s concern that the Respondent might re-offend or abscond, the Court noted that he had all along had a clear record and a good character, as could be seen from his social work as a District Councillor. He lived with his parents, had a steady job and had been reporting to the Police Station without fail since the date of the arrest. Having taken into account all that had been said,

the Court considered that the Respondent should be granted bail on the same terms as that ordered by the Chief Magistrate.

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