

Case Digest

HKSAR v Chow Ka Shing (鄒家成)

HCCP 294/2021; [2021] HKCFI 2075; [2021] 4 HKLRD 109
(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=137836&QS=%2B&TP=JU)

Before: Hon Toh J

Date of Hearing: 22 June 2021

Date of Reasons for Decision: 12 August 2021

Bail – conspiracy to commit subversion contrary to NSL 22(1)(3) and ss. 159A and 159C of Crimes Ordinance (Cap. 200)

1. The Applicant 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 Applicant 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”. He applied to the Court for bail under s. 9J of the Criminal Procedure Ordinance (Cap. 221) after the Chief Magistrate had refused to admit him to bail.

2. Held, allowing the application and granting bail with conditions, that the Court applied the two thresholds laid down by the CFA in *HKSAR v Lai Chee Ying* [2021] HKCFA 3. The Court was satisfied that with the conditions imposed*, the Applicant would not continue to commit any offences under the NSL if bail was granted to him. The Court found that despite having broadcast his views on certain conspiracies against the CPG as late as August 2020 in an interview, the Applicant had not directly advocated for international sanctions against

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

the CPG or HKSARG. The Court gave the Applicant the benefit of doubt as to whether what he had said was advocating or endorsing the sanctions or was merely commenting on them. As to the second threshold under s. 9G of the Criminal Procedure Ordinance, the Court was satisfied that with the conditions imposed, the Applicant would not fail to surrender to custody and would not commit an offence while on bail. (paras. 12 and 24-26)

3. The Court added that on a bail application, the interests of a particular client was more important than any political stance that counsel might hold, or might have held. It never was helpful to his client to add any political consideration into the bail application. (para. 16)

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