

Case Digest

HKSAR v Cheung King Sang Kinson (張敬生) and Others

HCCP 446/2021; [2021] HKCFI 3584

(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=140622&QS=%28hccp%7C446%2F2021%29&TP=JU)

Before: Hon Toh J

Date of Hearing: 24 September 2021

Date of Reasons for Decision: 3 December 2021

Bail – offence of advocating terrorism, and alternatively, incitement to wound with intent

1. The three Applicants were jointly charged with the offence of advocating terrorism, and alternatively, incitement to wound with intent. On 7 July 2021, the Hong Kong University Students' Union Council ("HKUSUC") passed a resolution to express sympathy and condolences to the family and friends of the perpetrator who attacked a police officer on 1 July 2021 in Causeway Bay, "in appreciation of" the perpetrator's "sacrifice to Hong Kong". At the material time, the 1st Applicant was the chairperson of HKUSUC, while the 2nd Applicant and the 3rd Applicant were respectively the proposer and the seconder of the said motion. They applied to the Court for bail after the acting Chief Magistrate refused them bail.

2. Held, granting bail to the three Applicants with conditions*, after applying NSL 42(2) and the CFA's decision in *HKSAR v Lai Chee Ying* [2021] HKCFA 3. In making the above decision, the Court had carried out a "predictive and evaluative exercise" on all matters submitted before

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

it as to the future conduct of the Applicants as decided by Anthea Pang J (as she then was) in *HKSAR v Lai Chee Ying* [2021] HKCFI 448. It was of the view that with the bail conditions imposed and taking into account the background of the Applicants, none of the Applicants would continue to commit acts endangering national security if granted bail. In the case of the 1st Applicant, the Court took into account, inter alia, his clear record, absence of any connection with any foreign country or external elements, and the fact that the HKUSUC's resolution was withdrawn with an open apology very shortly after it was announced. In the cases of the 2nd and 3rd Applicants, the Court took into account, inter alia, their clear records, resignation from their positions in HKUSUC and absence of any connection with any foreign or local organizations that might have political affiliation.

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