

Case Digest

HKSAR v Tong Ying Kit (唐英傑)

HCCP 463/2020; [2020] HKCFI 2196; [2020] 4 HKLRD 416
(Court of First Instance)

(Full text of the Court’s reasons for ruling in English at
https://legalref.judiciary.hk/lrs/common/search/search_result_detail_frame.jsp?DIS=130396&QS=%2B&TP=JU)

Before: Hon Alex Lee J

Date of Hearing: 25 August 2020

Date of Reasons for Ruling: 25 August 2020

Bail – incitement to secession contrary to NSL 20 and 21 – terrorist activities contrary to NSL 24

1. The Applicant was charged with incitement to secession contrary to NSL 20 and 21, and terrorist activities contrary to NSL 24. Apart from applying for *habeas corpus*^{*}, 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 bail application, that without considering NSL 42 and having given full credit to the Applicant’s personal background and ties to Hong Kong, bail should be refused on either one of the conventional grounds of “flight risk” and “risk of re-offending” while on bail[†].

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* Editor’s note: The Court refused the Applicant’s application for *habeas corpus* in *Tong Ying Kit v HKSAR* [2020] HKCFI 2133.

† Editor’s note: The Court published only a redacted decision, omitting the details of these two grounds of refusing bail in the present case. In the decision, the Court discussed in *obiter* whether NSL 42 introduced any drastic or significant changes to the existing law and practice regarding bail applications. As decided by the CFA in *HKSAR v Lai Chee Ying* [2021] HKCFA 3, there were flaws in such discussion, see particularly paras. 71-80.