

IN THE GENERAL DIVISION OF
THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2023] SGHC 248

Criminal Revision No 4 of 2023

Between

Vang Shuiming

... Applicant

And

Public Prosecutor

... Respondent

EX TEMPORE JUDGMENT

[Criminal Procedure and Sentencing — Revision of proceedings]
[Criminal Procedure and Sentencing — Bail]

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Vang Shuiming
v
Public Prosecutor

[2023] SGHC 248

General Division of the High Court — Criminal Revision No 4 of 2023
Vincent Hoong J
5 September 2023

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Vincent Hoong J (delivering the judgment of the court *ex tempore*):

Introduction

1 Mr Vang Shuiming (“the Applicant”) was arrested on 15 August 2023 as part of an investigation into money-laundering and forgery offences conducted on a large scale involving numerous suspects. By orders of a District Court, he has been remanded since 16 August 2023. The Applicant now seeks the exercise of the High Court’s powers to revoke the said orders of remand and substitute the orders with an order that the Applicant be granted bail, as well as to revoke and substitute the order currently in place in relation to the Applicant’s access to counsel.

Background facts

2 I first set out below the key events which have taken place since the Applicant’s arrest on 15 August 2023:

(a) On 16 August 2023, the Applicant was produced in the District Court. One charge under s 471 and punishable under s 465 of the Penal Code (Cap 224, 2008 Rev Ed) (“Penal Code”) was tendered against the Applicant.¹ On the Prosecution’s application, the District Court ordered that the Applicant be remanded at Central Police Division Headquarters for investigations for eight days under s 238(3) of the Criminal Procedure Code 2010 (“CPC”).²

(b) On 23 August 2023, the Applicant was produced in the District Court. Applications were made by the Prosecution as well as the Applicant through his counsel who appeared at the hearing. I set out a summary of these applications below (with the orders made by the District Court collectively referred to as the “23 August 2023 Orders”):

(i) The Prosecution made an application under s 238(3) of the CPC for the Applicant to be further remanded for a period of eight days. The Applicant’s counsel objected to the Prosecution’s application. The District Court allowed the Prosecution’s application for the Applicant to be further remanded for a period of eight days.³

(ii) The Applicant’s counsel applied for an order that the Applicant be granted immediate access to counsel by way of a 15-minute meeting between the Applicant and his counsel. The Prosecution objected to this application, taking the position that

¹ Affidavit of Teh Yee Liang dated 4 September 2023 (“Teh’s Affidavit”) at para 5. For a copy of the charge tendered against the Applicant, see Exhibit WRY-2 enclosed in Affidavit of Wang Ruiyan dated 29 August 2023 (“Wang’s 29 August Affidavit”).

² Teh’s Affidavit at para 6.

³ Teh’s Affidavit at para 7.

immediate access to counsel on 23 August 2023 would not be in the public interest as it would disrupt the Police’s ability to discharge their duty and carry out investigations in an effective and expeditious manner. The Prosecution, however, stated at the hearing that it was prepared for the Applicant to be granted access to counsel “from 29 August 2023, subject to the Commercial Affairs Department’s (“CAD”) operational constraints”.⁴ The District Court denied the Applicant’s application for an order that the Applicant be granted immediate access to counsel.

(iii) The Applicant’s counsel asked for a copy of the Law Society of Singapore’s Pamphlet of Rights (“the LSS Pamphlet”) to be extended to the Applicant. The Prosecution informed the District Court that a copy the LSS Pamphlet had already been handed to the Applicant. No order was necessary in relation to this point in view of the Prosecution’s response.⁵

(c) In an email correspondence between the Applicant’s counsel and the Prosecution before 29 August 2023, the Prosecution explained that the Applicant would be allowed access to counsel on 29 August 2023. Due to operational constraints of the CAD, each of the ten suspects arrested as part of the investigation would be allowed to speak to their

⁴ Teh’s Affidavit at para 8.

⁵ Teh’s Affidavit at para 8.

counsel for one hour only. Further, due to space constraints, only two persons were allowed to meet with each suspect.⁶

(d) On 29 August 2023, the following events took place:

(i) The Applicant was allowed access to his counsel for one hour. Two solicitors attended the meeting on 29 August 2023.⁷

(ii) The Applicant filed the present application, praying for the High Court to exercise its revisionary powers under s 401 of the CPC to revoke the 23 August 2023 Orders, and for the Applicant to be granted bail.⁸

(e) On 30 August 2023, the Applicant was produced in the District Court. Four further charges under s 54(1)(c) of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act 1992 (“CDSA”) were tendered against the Applicant.⁹ Applications were made by the Prosecution as well as the Applicant through his counsel who appeared at the hearing. I set out a summary of these applications below (with the orders made by the District Court collectively referred to as the “30 August 2023 Orders”).

(i) The Prosecution made an application under s 238(3) of the CPC for the Applicant to be further remanded for a period of eight days. The Applicant’s counsel objected to the

⁶ Teh’s Affidavit at para 10; see also, Exhibit TYL-1. For a copy of the charges tendered against the Applicant, see Exhibit WRY-3 enclosed in Affidavit of Wang Ruiyan dated 1 September 2023 (“Wang’s 1 September Affidavit”).

⁷ Teh’s Affidavit at para 11.

⁸ Teh’s Affidavit at para 12.

⁹ Teh’s Affidavit at para 13.

Prosecution's application. The District Court allowed the Prosecution's application for the Applicant to be further remanded for a period of eight days.¹⁰

(ii) The Applicant's counsel applied for an order that the Applicant be granted access to counsel without any limitations owing to the operational constraints of the CAD.¹¹ The Prosecution stated that access ought to be granted subject to the operational constraints of the CAD, but invited the Applicant's counsel to write to the Prosecution with specific requests relating to the Applicant's access to counsel. The District Court ordered that the Applicant be allowed access to counsel, subject to the operational constraints of the CAD.¹²

(f) On 1 September 2023, the Applicant's counsel wrote to the CAD requesting that the Applicant be allowed access to counsel for two hours on 5 September 2023, and for three persons to be allowed to meet the Applicant. This request was acceded to by the CAD in an email dated 2 September 2023 by which the Applicant was allowed access to his counsel from 10.00am to 12.00pm on 5 September 2023, and with three persons allowed to be present at the meeting.¹³

¹⁰ Teh's Affidavit at para 13.

¹¹ Wang's 1 September Affidavit at para 13.

¹² See Tab 6 of the Prosecution's Bundle of Authorities ("PBOA"): Notes of Evidence for District Court hearing on 30 August 2023.

¹³ Exhibit TYL-2.

3 The Applicant is dissatisfied with the 23 August 2023 Orders and the 30 August 2023 Orders and prays for them to be revoked. He further prays for an order that he be granted bail.¹⁴

4 Since the filing of this application, the District Judge (“DJ”) has published his grounds of decision on 4 September 2023 (see *Public Prosecutor v Vang Shuiming* [2023] SGDC 201 (“the DJ’s GD”)).

The law on exercise of the High Court’s revisionary power

5 I begin by articulating the general principles governing the exercise of the High Court’s revisionary powers. In *Ang Poh Chuan v Public Prosecutor* [1995] 3 SLR(R) 929, Yong Pung How CJ (as he then was) stated at [17] that:

Thus various phrases may be used to identify the circumstances which would attract the exercise of the revisionary jurisdiction, but they all share the common denominator that there must be some serious injustice. Of course there cannot be a precise definition of what would constitute such serious injustice for that would in any event unduly circumscribe what must be a wide discretion vested in the court, the exercise of which would depend largely on the particular facts. But generally it must be shown that there is something palpably wrong in the decision that strikes at its basis as an exercise of judicial power by the court below.

6 Similarly, Yong CJ stated in *Knight Glenn Jeyasingam v Public Prosecutor* [1998] 3 SLR(R) 196 at [19] that:

... The court’s immediate duty is to satisfy itself as to the correctness, legality or propriety of any order passed and as to the regularity of any proceedings of that subordinate court. However, this is not sufficient to require the intervention of the courts on revision. The irregularity or otherwise noted from the record of proceedings must have resulted in grave and serious injustice.

¹⁴ Petition for Revision (Amendment No. 1) dated 4 September 2023.

7 The above remarks were cited with approval by Sundaresh Menon CJ in *Public Prosecutor v Yang Yin* [2015] 2 SLR 78 (at [25]–[26]), where the High Court held that the High Court’s revisionary power under s 401 of the CPC is to be exercised sparingly and the threshold is that of serious injustice. In other words, the Applicant must show that there is something palpably wrong in the 23 August 2023 Orders and the 30 August 2023 Orders that strikes at its basis as an exercise of judicial power by the court below.

8 I consider each of the Applicant’s submissions in respect of the 23 August 2023 Orders and the 30 August 2023 Orders below.

My decision

The 23 August 2023 Orders

9 I first consider the 23 August 2023 Orders, which include: (a) an order that the Applicant be further remanded for a period of eight days; and (b) the DJ denying the Applicant an order that the Applicant be granted immediate access to counsel. Before considering the Applicant’s submissions in relation to each of the two orders made on 23 August 2023, I observe that the Applicant’s application for an order that the 23 August 2023 Orders be revoked and substituted with an order that the Applicant be granted bail is moot. This is because the 23 August 2023 Orders have been superseded by the 30 August 2023 Orders. As of the date of this hearing, the Applicant’s remand and right to counsel is based on the DJ’s 30 August 2023 Orders.

The DJ’s order on 23 August 2023 for the Applicant to be further remanded for a period of eight days

10 The Applicant first argues that the DJ erroneously granted the Prosecution’s application under s 238(3) of the CPC for the Applicant to be

further remanded for a period of eight days on 23 August 2023. The parties' submissions on this point can be summarised as follows:

(a) The Applicant argues that it was the Prosecution's burden to prove why an order for further remand was justified, and that the Prosecution failed to discharge its burden of proof by not adducing any evidence in support of its application.¹⁵

(b) On the other hand, the Prosecution submits that the DJ correctly concluded that the threshold for ordering that the Applicant be further remanded was met. The Prosecution states that the complex investigations were at an early stage as of 23 August 2023, with the results and review of forensic extraction from the Applicant's seized devices and information from financial institutions still pending.¹⁶ Further, the tracing of the Applicant's substantial assets was ongoing.¹⁷ Finally, the Prosecution states that there was a risk of collusion with other suspects if the Applicant was released on bail, given a purported connection between the Applicant and other persons wanted by the Police.¹⁸ The Prosecution also points to the fact that further evidence was, in fact, obtained as a result of the Applicant's further remand from 23 August 2023 to 30 August 2023 as set out in the affidavit of the lead investigator, Mr Teh Yee Liang ("Teh's Affidavit").¹⁹

¹⁵ Applicant's Skeletal Submissions dated 4 September 2023 ("Applicant's Submissions") at paras 16 to 17.

¹⁶ Prosecution's Submissions dated 4 September 2023 ("Prosecution's Submissions") at para 11.

¹⁷ Prosecution's Submissions at para 11.

¹⁸ Prosecution's Submissions at para 11.

¹⁹ Prosecution's Submissions at para 15; see also, Teh's Affidavit at para 36.

11 Having considered the parties' submissions, I find that there was nothing palpably wrong with the DJ's order on 23 August 2023 for the Applicant to be further remanded for a period of eight days. I make two points in this regard.

12 First, while the Applicant states that no evidence was adduced by the Prosecution to support its application for a further remand of eight days,²⁰ it is important to recognise that the typical evidential rules do not apply in such proceedings, which are meant to be dealt with in a summary way. This was considered by the Court of Appeal in *Public Prosecutor v Solihin bin Anhar* [2015] 3 SLR 447 (at [38]) when it set out the type of evidence which the court may rely upon in dealing with applications regarding the granting and revocation of bail:

... conclusive evidence is certainly not the applicable standard when a court decides whether to revoke the bail granted to an accused under s 102(1) or 103(4) of the CPC. Even if it did involve hearsay evidence, a court in bail proceedings does not have to apply the strict evidential rules applicable to trials. Affidavit evidence is frequently relied upon in applications regarding the granting or revocation of bail which, as we have already noted, are to be dealt with quickly and in a summary way. At such proceedings, the court is therefore entitled to have regard to hearsay evidence subject to evaluating it and assigning it the appropriate weight.

13 In my view, such considerations would similarly apply when evaluating whether an order should be made under s 238(3) of the CPC for an accused person to be remanded. Section 238(3) of the CPC only requires the court to consider whether it *appears likely* that further evidence *may* be obtained by a remand. The threshold is clearly not a high one. This would also explain why, when an order is made under s 238(3) of the CPC for the accused to be further remanded, the statutory provision limits the length of remand to not more than

²⁰ Applicant's Submissions at paras 16 to 17.

eight days *at a time*. This is meant to strike a balance between allowing the Police the time and space to conduct its investigations effectively whilst safeguarding the interests of an accused person by regularly reviewing the need for further remand and only ordering further remand for a limited period of no more than eight days at a time. In my view, the Prosecution was, therefore, entitled to rely primarily on its oral submissions to support its application for further remand at the hearing on 23 August 2023.

14 As the DJ observed, the Applicant's contention that the Prosecution was obliged to provide affidavit evidence to support its application for further remand of the Applicant is neither a requirement stipulated in s 238(3) of the CPC nor one that is supported by a careful reading of the language of s 238(3) of the CPC. Given that section 238(3) of the CPC only requires the court to consider whether it *appears* likely that further evidence may be obtained by a period of remand rather than for this to be *proved*, the Applicant's argument that the Prosecution needed to provide affidavit evidence is untenable: see the DJ's GD at [13]–[16].

15 More significantly, as the DJ highlighted, the nature of remand applications is such that there is a need for remand applications to be heard *expeditiously*. On this point, I fully agree with the explanation offered by the DJ on why an application of the strict rules of evidence to remand applications would be wholly incompatible with the public interest. I reproduce his explanation in full below (see the DJ's GD at [20]):

20 ... it is incompatible with public interest to apply strict rules of evidence to remand applications. Let me explain.

(a) First, there is typically a need for remand applications to be heard expeditiously – to prevent (i) criminal proceeds from being dissipated, (ii) evidence from disappearing or being corrupted, and (iii) suspects from absconding. To require remand applications to be

supported with affidavit evidence will cause delay and can thus compromise investigations. *Further* delay can arise if an accused person requires time to tender rebuttal affidavits.

(b) Second, it is not unusual for remand applications to be based only on educated assumptions on possible investigative leads, as well as evidence that is hearsay, incomplete, or even inconsistent. This is because during the early stages of investigations (when remand applications are made), investigators will often not have a clear idea of whether an offence – and if so, what offence – is disclosed. Frequently, investigators will need to sieve through evidence from (i) witnesses who may be uncooperative, forgetful, and/or mistaken, and (ii) suspects who may have taken steps to hide their crime. Given these circumstances, it is not reasonable to use the same evidential yardstick applicable to trials to assess remand applications. It bears emphasis that when assessing a remand application, the issue is simply whether an accused person's remand would assist in obtaining *further evidence of an offence* – and not whether there is sufficient evidence to prove that the accused person is guilty of an offence.

(c) Finally, to require that remand applications be supported by affidavit evidence can lead to the injurious disclosure of confidential investigative methods and findings. Such a disclosure can jeopardise the investigations – not just in an accused person's case, but in future cases as well.

[emphasis in original]

16 Second, looking at the submissions of the Prosecution in support of its position for further remand, the investigations were at a preliminary stage as of 23 August 2023.²¹ In my view, the Prosecution's application for further remand on 23 August 2023 was justified based on the need to conduct further investigations into a complex case, as well as the risk of collusion because of

²¹ Teh's Affidavit at paras 26 to 27.

the purported connection between the Applicant and other persons wanted by the Police.²²

The DJ's decision on 23 August 2023 to deny the Applicant's application for an order that the Applicant be granted immediate access to counsel

17 Next, the Applicant argues that the DJ erroneously denied the Applicant's application for an order that he be granted immediate access to counsel. The parties' submissions on this point can be summarised as follows:

(a) The Applicant argues that it was the Prosecution's burden to prove that giving effect to the Applicant's right to counsel would impede the Police's investigations or the administration of justice. The Applicant states that the Prosecution failed to discharge its burden of proof by failing to adduce any evidence to discharge its burden of proof.²³

(b) On the other hand, the Prosecution submits that the Applicant's right to counsel is not an immediate right to counsel. Rather, the Applicant is entitled to counsel within a reasonable time after his arrest. This is to strike a balance between an accused person's right to legal representation and the public interest in allowing the Police to carry out effective investigations.²⁴ In the present case, the Prosecution highlights that it had committed at the hearing on 23 August 2023 to allowing the Applicant access to counsel from 29 August 2023, subject to the operational constraints of the CAD. Given that the Applicant was arrested on 15 August 2023, this would have meant that the duration of

²² Teh's Affidavit at paras 21, 24 and 30.

²³ Applicant's Submissions at paras 18 to 23.

²⁴ Prosecution's Submissions at paras 19 to 20.

non-access to counsel would have only been two weeks. The Prosecution states that its position was a reasonable one. Given the sensitive and complex nature of the investigations in the present case, the Police had to focus on following up on new leads and gathering evidence while it still remained available.²⁵

18 Having considered parties' submissions, I find that that there was nothing palpably wrong with the DJ's decision on 23 August 2023 to deny the Applicant's application for immediate access to counsel. As set out in *Jasbir Singh and another v Public Prosecutor* [1994] 1 SLR(R) 782 (at [45]–[49]), while an accused person has a right to counsel, this right is not one which must be granted to him immediately. Rather, an accused person's right to counsel needs to be granted to him only within a reasonable time after his arrest. This is due to the need to strike a balance between an accused person's right to legal advice and the duty of the Police to protect the public by carrying out effective investigations.

19 In the present case, it is clear from Teh's Affidavit that the Police needed time to conduct their investigations without distraction. Granting the Applicant access to counsel would have led to significant arrangements having to be made for all the suspects arrested as part of this investigation to similarly be granted access to counsel, whilst ensuring that the suspects did not communicate with one another.²⁶ Further, at the hearing on 23 August 2023, the Prosecution had already made clear that access to counsel would be granted from 29 August 2023.²⁷ In light of the above, as well as the fact that this was a complex

²⁵ Prosecution's Submissions at paras 22 to 24.

²⁶ Teh's Affidavit at paras 32 to 35.

²⁷ Prosecution's Submissions at para 24.

investigation and a commitment was made that access to counsel would be granted from a date which was within two weeks of the Applicant's arrest, I do not find that the DJ erred in denying the Applicant's application for immediate access to counsel.

The 30 August 2023 Orders

20 I next consider the 30 August 2023 Orders, which include: (a) an order that the Applicant be remanded for a further period of eight days; and (b) an order that the Applicant be granted access to counsel, subject to the operational constraints of the CAD.

The DJ's order on 30 August 2023 for the Applicant to be further remanded for a period of eight days

21 The Applicant first argues that the DJ erroneously granted the Prosecution's application under s 238(3) of the CPC for the Applicant to be further remanded for a period of eight days on 30 August 2023. The parties' submissions on this point can be summarised as follows:

(a) The Applicant argues that it was the Prosecution's burden to prove why an order for further remand was justified, and that the Prosecution failed to discharge its burden of proof by not adducing any evidence in support of its application.²⁸

(b) On the other hand, the Prosecution submits that the DJ correctly concluded that the threshold for ordering that the Applicant be further remanded was met. The Prosecution highlights that four further CDSA charges had been tendered against the Applicant at the hearing on 30

²⁸ Applicant's Submissions at paras 24 to 25.

August 2023. However, extensive investigations still needed to be carried out, which included the recording of further statements, the review and receipt of voluminous data and the conducting of checks with foreign authorities.²⁹ Further, investigations had linked the Applicant to a suspect wanted by the Police who was out of jurisdiction. There was, in the Prosecution's view, a real risk of collusion if the Applicant were to be released on bail on 30 August 2023.³⁰

22 In my view, there was nothing palpably wrong with the order on 30 August 2023 for the Applicant to be further remanded for a period of eight days.

23 First, it is clear that, as of 30 August 2023, there was progress in the Police's investigations, given that four further CDSA charges had been tendered against the Applicant on that day. As the DJ had observed, this was a clear demonstration that the previous period of remand had led to further evidence being obtained (see the DJ's GD at [33]).

24 Further, as set out in Teh's Affidavit, the CAD had assessed that there were numerous parts of the investigation which were yet to be completed. This included the recording of further statements from the Applicant about information received from the other suspects and persons of interest.³¹ The CAD was also in possession of evidence showing close association between the Applicant and two suspects, Su Haijin and Su Baolin, as well as evidence showing communications between the Applicant and one Suspect X who was

²⁹ Prosecution's Submissions at para 16.

³⁰ Prosecution's Submissions at para 17.

³¹ Teh's Affidavit at para 37.

wanted by the Police and was out of jurisdiction.³² In light of the above, the CAD made the assessment that there was a real risk of collusion and contamination of evidence if the Applicant were to be released before the CAD had obtained the further evidence it required. In my view, based on the details of the pending investigation and the CAD's reasons for its assessment that there was a real risk of collusion and contamination of evidence, there was clearly a need for the Applicant to be further remanded for a period of eight days.

25 Further, I wish to state that I agree with the DJ's observations on when an application for further remand typically ought not to be granted: (a) where remand is sought merely for the investigator's convenience; (b) where remand is sought for the improper motive of pressuring an accused person to confess to an offence; (c) where previous remand has failed to provide any further evidence; (d) where remand is sought for a minor offence which attracts a low fine even if the accused person is convicted; or (e) where remand would significantly exacerbate an accused person's illness which cannot be remedied by changing the conditions of remand (see the DJ's GD at [30]). In such situations, it is clear that the prejudice caused to an accused person by allowing an application for further remand would be disproportionate to the investigative benefits of his remand.

26 The present case, however, was clearly not a case like the ones listed above. The present case involved a complex investigation, where previous periods of remand had clearly led to further evidence being obtained, and where it appeared likely that a further period of remand may lead to new evidence being obtained. In my view, therefore, there was nothing palpably wrong with

³² Teh's Affidavit at paras 38 to 39.

the DJ's order on 30 August 2023 for the Applicant to be further remanded for a period of eight days.

The DJ's order on 30 August 2023 that the Applicant be granted access to counsel, subject to the operational constraints of the CAD

27 The Applicant further argues that the DJ erred in ordering that the Applicant be granted access to counsel *with the caveat* that this was subject to the operational constraints of the CAD. The Applicant argues that the Prosecution ought not to have been allowed to curtail the Applicant's right to counsel without explaining what these operational constraints were or proving the existence of such constraints.³³ The Prosecution argues, however, that such caveats are entirely consistent with the principle that the right of access must be balanced against the public interest. Further, access could not be expected to be entirely unfettered so long as the Applicant remained in remand.³⁴

28 In my view, there was nothing palpably wrong with the order on 30 August 2023 that the Applicant be granted access to counsel, subject to the operational constraints of the CAD. First, the Prosecution had earlier explained in its correspondence with the Applicant's counsel what the operational constraints entailed: (a) a time constraint, given the need for the CAD to conduct its investigations whilst allowing all the suspects access to their counsels; and (b) a space constraint, which limited the number of persons who could meet a suspect at any point.³⁵ Second, the Prosecution had also made clear during the hearing that the Applicant's counsel could write to the Prosecution with its specific request relating to the Applicant's access to counsel. This was a

³³ Applicant's Submissions at para 27.

³⁴ Prosecution's Submissions at para 25.

³⁵ See Exhibit TYL-1.

reasonable position. In fact, this was precisely what the Applicant's counsel did subsequently when it wrote to the CAD requesting the Applicant to be allowed access to counsel for two hours on 5 September 2023, and for three persons to be allowed to meet the Applicant. This request was acceded to by the CAD, and the meeting took place on 5 September 2023.³⁶

29 At the hearing before me today, the Applicant's counsel, Mr Wong Hin Pkin Wendell ("Mr Wong"), stated that the Applicant ought to be granted "liberal access" to counsel if the Applicant were ordered to remain in remand. When probed further about what "liberal access" entailed, Mr Wong stated that the following would be ideal: (a) the Applicant ought to be granted access to counsel between two to three times over the eight-day period when the Applicant is further remanded; and (b) an allowance should be made for each meeting between the Applicant and the counsel to last between one to two hours. Mr Wong also raised various concerns about the venue offered for previous meetings between the Applicant and his counsel. However, Mr Wong conceded that he had not submitted requests on these issues to the Prosecution before the hearing today. Given that the DJ had already ordered that the Applicant be granted access to counsel, subject to the operational constraints of the CAD, there was nothing stopping Mr Wong from writing to the CAD or the Prosecution to make these specific requests. At the hearing today, the Prosecution took the view that there was no "serious injustice" caused, and the Applicant was granted access to counsel from 29 August 2023 whenever a request was made by the Applicant's counsel. The Prosecution was, however, unable to commit to "liberal access" in the terms defined by Mr Wong. Instead, the Prosecution invited Mr Wong to write to the CAD or the Prosecution to make these specific requests for them to be considered.

³⁶ See Exhibit TYL-2.

30 In my view, this is not an unreasonable position. I agree that Mr Wong should make these requests to the CAD or the Prosecution first before seeking a court order. In any case, the threshold for criminal revision is not met, given that there has been no “serious injustice” occasioned by the DJ’s order as it stands.

31 Finally, Mr Wong also raised a concern at the hearing before me today that there have been restrictions placed by the CAD on the Applicant’s access to various family members. However, strictly speaking, based on the Petition for Revision filed by the Applicant, no prayer was made by the Applicant in relation to the DJ’s order relating to the Applicant’s access to his family members. Further, it appears that restrictions have been placed on the Applicant’s access to various family members as investigative statements have been recorded or will be recorded from these family members.

32 I note that the DJ made an order at the hearing on 30 August 2023 that the Applicant be granted access to his family members. However, Mr Wong stated at the hearing before me today that the DJ was not informed by either party on 30 August 2023 on the fact that statements have been recorded or will be recorded from various family members. In view of this, I find that it would be more appropriate for the parties to raise these concerns relating to the Applicant’s access to his family members to the DJ at the next hearing in the court below. The DJ can then make any further order as he deems appropriate.

Conclusion

33 For the reasons above, I do not find that the District Court’s orders of 23 August 2023 and 30 August 2023 can be described as wrong, much less palpably wrong, such as to meet the high threshold of “serious injustice” on

which any exercise of the High Court's revisionary powers is contingent. As the threshold for the High Court's revisionary power under s 401 of the CPC to be exercised has not been met, I dismiss the Applicant's application.

Vincent Hoong
Judge of the High Court

Wong Hin Pkin Wendell, Andrew Chua Ruiming and Yang Xinyan (Drew & Napier
LLC) for the applicant; and
Ng Yiwen, David Koh and Kang Jia Hui (Attorney-General's Chambers) for the
respondent.
