

Anwar wants PAA charge heard by High Court

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By Hafiz Yatim

Opposition Leader Anwar Ibrahim filed an application through his lawyer Karpal Singh in the session's court today to strike out his Peaceful Assembly Act (PAA) charge.

This is so that the PAA charge against him for his participation in the Bersih 3.0 rally on April 28 could be heard before the High Court.

Karpal wants the High Court to hear the matter as it involves a question on the constitutionality of Section 4(1) (c) of the PAA with regard to Article 10 (1) of the federal constitution on the freedom of assembly.

This is because the matter involves the right to assemble freely and that being a constitutional matter and that also involved issues of interpretation, the application would best heard be by the High Court, since the sessions court has no jurisdiction on matters pertaining to the constitution.

The prosecution team led by newly-appointed head of prosecution Abdul Wahab Mohamad indicated before sessions judge Mahmud Abdullah that they would object to the application.

Wahab is assisted by DPPs Mohd Hanafiah Zakaria and Ishak Mohd Yusof.

Following this development, Mahmud fixed Sept 13 for the hearing of the prosecution's objection to transfer the case.

At the last hearing on July 2, the prosecution added a charge of abetment to break the barricades at Dataran Merdeka against Anwar, PKR deputy president Azmin Ali and former party supreme council member Badrul Hisham Shaharin and today, the DPP applied to amend this charge.

'Prosecution negligent'

Wahab said the charge for abetment was missing a particular sentence, which was that the charge should be read together with Section 147 of the Penal Code for rioting, which includes a two-year jail term, or a fine or both.

After the court interpreter read the charge against Anwar, Azmin and Badrul Hisham, the opposition leader remarked that the "prosecution was cuai (negligent) and lembab (incompetent) in framing the charge against me."

This resulted in Wahab hitting back that the defence was also cuai for filing the application to transfer the matter to the High Court only today.

Certainly, he said, the prosecution needed time to study this application as it had already prepared its submissions against the striking out of the application.

"However, we will also object to Anwar's application to have this matter heard by the High Court," Wahab added.

Badrul Hisham, who is better known as the blogger Chegubard, was not present today as he is on medical leave.

Azmin's lawyer CV Prabhakaran informed the court that he would file to strike out the charge on grounds that magistrate Zaki Ashraf Zubir's ex-parte order to prevent the Bersih 3.0 gathering was not in order under Section 98 of the Criminal Procedure Code.

'Violating court order'

Sessions judge Mahmud asked Prabhakaran why he was not filing his application together with Karpal's, to which the lawyer said he needed to seek further instructions.

Besides the charge of abetting, Anwar, Azmin and Chegubard also face a charge under Section 4 (2)(c) of the PAA on taking part in the Bersih 3.0 rally and violating a court order between 2.30pm and 3pm on April 28.

The court order, signed by magistrate Zaki on April 26, prohibited the gathering at Dataran Merdeka and the area between Jalan Sultan Hishammuddin, Jalan Raja and Jalan Kelab.

If found guilty, all three are liable to a maximum fine of RM10,000 each for this charge.

They also face a third charge under Section 188 of the Penal Code in that they allegedly breached the magistrate's order.

They are said to have conspired with Rasah PKR division deputy head R Tangam, lawyer G Rajesh Kumar and van driver Farhan Ibrahim @ Alias by inciting them to breach the barricade surrounding Dataran Merdeka, which 'could have caused a riot or clashes'.

If convicted, under this section, they will face a maximum jail term of one month or a fine of RM2,000 or both.

Any conviction and a fine in excess of RM2,000 or a jail term of a year will result in Anwar, who is Permatang Pauh MP, and Azmin, who is Gombak MP, automatically losing their seats.

Today's proceedings also saw Karpal informing the court that former solicitor-general II Mohd Yusof Zainal Abiden (above) would be representing Chegubard, along with Sankara Nair.

Yusof was not present at the proceedings today.

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