

High Court Ordered To Decide Whether Charge Against Khairuddin And Chang Is Under SOSMA
Bernama
Nov 3, 2015

PUTRAJAYA, Nov 3 (Bernama) -- The Federal Court here today ordered the High Court to decide on whether the charge made against former Batu Kawan UMNO vice-chief Datuk Seri Khairuddin Abu Hassan and lawyer Matthias Chang was under the Security Offences (Special Measures) Act 2012 (SOSMA).

In denying the duo temporary bail, a five-member panel of the Federal Court chaired by Chief Justice Tun Arifin Zakaria also instructed the High Court to hear their bail application.

He said the Federal Court could grant interim bail to Khairuddin and Chang as it would be akin to prejudging the matter.

Ariffin then fixed this Thursday (Nov 5) for the High Court to hear the matter, saying that the matter should be heard expeditiously since it involved liberty of persons.

He also directed the Court of Appeal to hear the matter on a urgent basis, in the event the matter were to go up to that court.

The panel, which also comprised Court of Appeal President Tan Sri Md Raus Sharif and Federal Court judges Tan Sri Ahmad Maarop, Tan Sri Hasan Lah and Datuk Ramly Ali, allowed the prosecution's preliminary objection for the Federal Court to decide on the constitutional questions and remitted the matter back to the High Court to decide on the three questions in respect of the duo's charge.

Justice Arifin, who delivered the court's unanimous decision, said the court agreed with the prosecution that the reference of constitutional questions made by the High Court was incompetent because it did not comply with Section 84 of the Courts of Judicature Act 1964.

Deputy Public Prosecutor Awang Amardajaya Awang Mahmud submitted that the questions posed by the High Court for the Federal Court to determine the matter did not fulfill Section 84 because they were not constitutional questions but were questions in respect of the charge facing the two men.

The three questions brought before the Federal Court was whether the charge against the duo under Section 124L of the Penal Code, fall outside the constitutional ambit of SOSMA.

Khairuddin, 53, and Chang, 65, were charged with attempting to sabotage Malaysia's banking and financial services at five locations between June 28 and Aug 26, this year under Section 124L of the Penal Code read with Section 34 of the same Code, which carries a jail term of up to 15 years upon conviction.

The locations are the office of the France Economic and Financial Crimes Division chief in Paris; Charing Cross Police station, London, United Kingdom; office of the Switzerland

Attorney General in Bern; WaiChan Police station, Hongkong and Cantonment Police Headquarters, Singapore.

The duo filed a motion at the High Court seeking several orders, among others, that the charge against them did not fall under SOSMA and wanted the court to release them on bail.

However, High Court judge Datuk Mohd Azman Husin on Oct 19 this year referred their case to the Federal Court to determine constitutional questions which the Federal Court had set today for hearing.

In the proceedings today, Khairuddin's counsel Mohamed Haniff Khatri Abdulla ?said the questions involved constitutional issues.

Chang's counsel, Zainur Zakaria said it was appropriate for the Federal Court to decide on the questions to avoid going through the appeal process as both Khairuddin and Chang were being detained.

-- BERNAMA

Copyright © 2015 BERNAMA

<http://www.bernama.com/bernama/v8/newsindex.php?id=1186028>