

Sessions Trial No. 3(5) of 2025

Sessions Case No. 4 of 2025

CNR No. WBDJ070000162025

JO CODE : WB00659

Present : Sri Utpal Misra, Sessions Judge, Kalimpong

Order No. 17, Dated : 28/10/2025

1. Today is fixed for evidence of of CSW no. 3 & 4.
2. Accused Abdul Kayyum has been produced from J/C through V/C.
3. Ld. P.P. as well as Ld. Defence Counsel both are present.
4. Ld. P.P files hazira of two witnesses namely CSW no. 3 Anil Thapa & CSW no. 4 Const. Shankar Kharka and they are examined in chief and cross examined in full as PW 3 & PW 4 respectively and discharged thereafter.
5. The certificate u/sec. 65 B of Indian Evidence Act is marked as Exbt. P-4/PW 3 , the signature of the PW 3 on the seizure list is marked as Exbt. P-5/PW 3 and signature of PW 4 on the seizure list is marked as Exbt. P-6/PW 4.
6. Todate (29/10/2025) for evidence as per schedule.
7. Accused to be produced through VC on the date fixed.

Dictated & Corrected

Sd/-

Sessions Judge
Kalimpong

Sd/-

Sessions Judge,
Kalimpong

Later, Dated : 28.10.2025

1. An application is filed on behalf of the prosecution today praying for expunging the name and designation of the Ld. Public Prosecutor from the order no. 16 dated 24.09.2025.

2. Seen the application.

3. Ld. P.P. submits that he had no knowledge regarding the rejection of the bail application of the accused before the Hon'ble High Court Calcutta, Circuit Bench at Jalpaiguri or before the Hon'ble Supreme Court. He further submits that if he had any knowledge about the rejection of the bail application in any appellate court then he would have positively submitted before the Ld. Court and he has not suppressed any information or facts of the present case.

4. Considered.

5. Having heard the submissions of the Ld. P.P. and perusing the materials on record, it appears that admittedly bail applications of the accused were rejected both before the Hon'ble High Court Calcutta, Circuit Bench at Jalpaiguri as well as before the Hon'ble Supreme Court.

6. If that be so, then it was the bounden duty upon the prosecution to highlight the same at the time of bail hearing of the accused before this court because it is presumed that such facts should have been incorporated in the case diary itself.

7. However, as the Ld. Public Prosecutor has stated that he had no knowledge about the same, so, this court has no other option but to believe him.

8. Hence, the petition filed by the Ld. P.P. stands allowed with an advice to the prosecution that the prosecution should be more vigilant henceforth in such type of sensitive cases. The name and designation of the Public Prosecutor is hereby expunged from the order no. 16 dated 24.09.2025 and paragraph no. 4 of the said order now reads here under :

“But is is surprising that at the time of hearing of the bail application, both the prosecution and the Ld. Defence Counsel Mr. Anal Rai have not mentioned anything regarding rejection of bail application of the accused/petitioner either before the Hon’ble High Court at Calcutta, Circuit Bench at Jalpaiguri or the Hon’ble Apex Court and there is no whisper about the rejection of bail application of the accused/petitioner before the Hon’ble High Court or the Hon’ble Supreme Court of India in the bail application filed by the accused/petitioner.”

9. Rest portion of the order will remain the same.

10. The petition is thus accordingly disposed of.

Dictated & Corrected

Sd/-

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Kalimpong

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Kalimpong