

**Special Trial No. 05 (09) of 2023**  
**(CIS- 05/2023)**

Present: Sri Anirban Das (WB00691)  
1<sup>st</sup> Addl. Sessions Judge, Sealdah

**Order No. 26 Dated: 11.12.2024**

Ld. Advocates for the accused persons and the Ld. Special PP are present.

The accused persons are not produced in terms of order dated 11.11.2024 as today was fixed for hearing of the petition dated 11.11.2024.

On that very date (11.11.2024) during cross examination of PW-5 the Ld. Counsel put a specific question to the witness in the following manner:-

“Do you know that the word ‘rape’ can not be mentioned or used in the medical report”.

At that time, this court objected and it was observed by this court that this is a question of argument and can not be placed to the witness.

Over that issue further cross examination of PW-5 was deferred and for taking the decision over the said issue today the Ld. Counsel for the accused placed the submission.

At the time of submission the Ld. Counsel placed before me the order of Government of West Bengal (DHS) vide no. HFW-40099/18/2019/HA/SEC (DHS) (HFW)-Dept of H & FW/38 dated 01.04.2019 and attracted my attention to the instruction no. 5 issued by Government wherein it was specifically mentioned that the doctor should not, on the basis of the medical examination, conclude whether rape/sexual assault had occurred or not.

It was also mentioned in the said instruction that only findings in relation to medical findings should be recorded in the medical report.

The Ld. Counsel submits that on the basis of the said circular of Government of West Bengal the question in dispute was placed to the witness during cross examination.

I have heard the Ld. Counsel.

It is fact that this directive of state was not placed while the question was put and accordingly, this court raised some objection for recording of the said question.

If this document would be placed at that time this delay would not occur.

However, on the basis of this directive of State of West Bengal the Ld. Counsel is permitted to put the question in dispute to the PW-5 by showing her this specific direction of state.

Accordingly, the petition dated 11.11.2024 is disposed of.

The bail petition filed for the accused Sadia Afsa is taken up for hearing.

Heard both sides.

The Ld. Counsel prayed for bail of the accused on the ground of her educational qualification.

I have perused the same and also I have considered the observation of the Hon'ble Court as passed in CRM (DB) 2906 of 2024 dated 04.10.2024.

I have also considered the evidences on record and I do not find any ground to release the accused on bail and the prayer stands rejected.

Fix **20.01.2025** for further cross examination of PW-5 in the light of this order.

D/C by

(Anirban Das)/ WB00691,  
Additional Sessions Judge,  
1<sup>st</sup> Court, Sealdah

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