

**'Male Y' DNA Profile Found In Mohd Saiful's Rectum Not Anwar's - Defence**  
**Bernama**  
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PUTRAJAYA, Oct 29 (Bernama) -- The DNA profile of a person identified as 'Male Y' found in the rectum of Mohd Saiful Bukhari Azlan did not belong to Opposition Leader Datuk Seri Anwar Ibrahim, the Federal Court heard today.

Submitting before a five-man bench led by Chief Justice of Malaysia Tun Arifin Zakaria, lawyer Sangeet Kaur Deo said there was no evidence at all to link 'Male Y' to Anwar.

She explained that none of the police officers who were on duty at the lock-up saw Anwar use the three items -- a toothbrush, Good Morning towel and mineral water bottle -- which were given to him by the police when he was detained overnight from July 16 to July 17 in 2008.

Sangeet said one police officer had told the court that he only heard a sound as if Anwar, 67, was brushing his teeth.

"He saw Anwar use the cell toilet but he did not see the appellant (Anwar) brush the teeth," she said.

Therefore, she said it was impossible to link the DNA profile of 'Male Y' to Anwar because it could belong to anyone.

Asked by Arifin whether there was another person in the cell, Sangeet replied that Anwar was the sole occupant.

She argued that the prosecution only relied on circumstantial evidence that Anwar had used the items; however, the police officer never saw Anwar use them.

"The circumstantial evidence is usually relied upon when there is no direct evidence. But in this case, we have witnesses who did not see the appellant use the items," she said.

However, Federal Court Judge Tan Sri Abdull Hamid Embong explained that in law, circumstantial evidence could be applied, not necessarily just direct evidence, but it could be both.

Sangeet submitted that in the High Court, a trial-within-a-trial was conducted by the court for the purpose of determining whether there was sufficient evidence for the court to exclude DNA profiling from the three items.

She said the High Court, in its ruling, had excluded the three items but reversed its earlier decision after allowing the prosecution to review the ruling and allowed the items to be tendered as evidence.

She argued that from the ruling made by the High Court to exclude the items, it was clear that it was based on unfair means and unfair method employed by the police, meaning it was by trick and deception that the police attempted to introduce the DNA evidence.

Sangeet further submitted that the items obtained for DNA profiling by the police were by improper and unfair means as Anwar refused to give his blood sample for DNA purpose when requested by Kuala Lumpur Hospital doctors.

She said based on authorities, Anwar had constitutional rights not to do so and he was not legally obliged to provide his blood sample for DNA.

Sangeet said, instead of being released after the medical examination, Anwar was taken to the lock-up cell and supplied with the three items.

"It is significant to note that when the items were recovered from the lock-up, Anwar was not present," she added.

The lawyer pointed out that the court should have considered what was stated in the lock-up diary as it was very detailed.

In fact, she said based on the evidence, the lock-up diary had recorded Anwar's movement every two hours such as when he was sleeping and leaning to the cell railing.

She submitted that without the items, there was a major gap in the prosecution case and therefore, the prosecution had failed to link the DNA of 'Male Y' to Anwar.

At the outset, another lawyer, N. Surendran submitted that the Court of Appeal had failed to consider Anwar's statement from the dock with other evidence, in convicting the opposition leader.

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