

10.03.21 In re: An application for bail under Section 439 of the Code of Criminal
(S.R.) Procedure filed in connection with **Murarai** Police Station Case **No.93**
Sl.16 **of 2020** dated **28.09.2020** under Sections **376(3)** of the Indian Penal
Ct.28 Code read with Sections **4/6/8/10/12** of POCSO Act;

And

In re: Meser Sk @ Meser Sekh

... petitioner.

Mr. Bitasak Banerjee

Mr. Abdus Salam

... for the petitioner.

Mr. Binay Panda

Mr. Subham Bhakat

...for the State.

Mr. Banerjee, learned advocate appearing for the petitioner submits that from the evidence which has been recorded till date seven witnesses have been examined and from the deposition of the prosecution witnesses the case against the present petitioner do not stand. Learned advocate also submits that the petitioner is in custody for 156 days and urges to consider the evidence in Court of the seven witnesses to weigh the personal liberty of the present petitioner. Additionally, he submits that on such evidence there is no scope of the petitioner being finally convicted.

Mr. Panda, learned advocate appearing for the State opposes the prayer for bail and produces the case diary before this Court.

We have perused the evidence of the two witnesses along with the supplementary affidavit, wherein depositions of another five witnesses were placed before this Court.

We find that the learned trial court while recording the evidence of PW2 has categorically observed "*Though the charge has been framed against the accused u/s 4/6/8 of POCSO Act along with section 376(3) I.P.C. yet the Ld. Special PP did not think it necessary to declare the*

witness hostile. The evidence of witness speaks itself that the witness intentionally suppressed the truth and gave a false statement before the Court.)” and thereafter proceeded to examine himself so far as the evidence of PW2 is concerned.

We have gone through the statements of medical expert as well as the medical report, which have been submitted in connection with the instant case. From an analysis of the medical evidence as well the statement under Section 164 of the Code of Criminal Procedure, we are unable to exercise any discretion in favour of the present petitioner.

Accordingly, the application for bail being CRM No.641 of 2021 is rejected.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Tirthankar Ghosh, J.)

(Tapabrata Chakraborty, J.)