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10.06.2026
Ct.05

W.P.A. 12327 of 2026

Aroop Biswas

-vs-

The State of West Bengal & Ors.

Mr. Kishore Durtta,
Mr. Sourav Chatterjee,
Mr. Avik Ghatak,
Mr. Soumya Nag,
Mr. Rajdeep Sengupta,
Mr. Sujit Singh,
Ms. Rittika Singh

....for the petitioner.

Mr. Surojit Nath Mitra,
Mr. Kollol Mondal,
Ms. Chandrayi Alam,
Mr. Anirban Mitra,
Mr. Maukh MUKherjee

....for the State.

Mr. Arindam Jana,
Ms. Jhuma Sen,
Ms. Purbali Dutta,
Mr. Sumanta Ganguly,
Mr. Yuvraj Chatterjee,
Mr. Saikat Guin,
Mr. Rahul Surtani

....for the respondent no.5.

1. Matter is heard in presence of the learned advocates representing the petitioner, State respondents and respondent no.5 being the defacto-complainant.
2. Mr. Kishore Dutta, learned senior advocate representing the petitioner has approached this Court with the present writ petition, *inter alia*, praying for quashing of criminal prosecution being Bidhannagar South Police Station Case No.138/2026 dated 30th May, 2026 under Sections

308(2)/318(4)/351(2)/61(2)/3(5) of BNS, 2023.

3. Concerned police authority initiated criminal prosecution being Bidhannagar South Police Station Case No.138/2026 dated 30th May, 2026 based on the complaint of respondent no.5 alleging wrongful gain before the sporting event slated to be organized on 13th December, 2025 where Lionel Andres Messi Cuccittini (popularly known as 'Messi") a Soccer Legend was scheduled to be present at the field of Yuba Bharati Krirangan, Kolkata.
4. It is alleged in the complaint that respondent no.5 was compelled to handover complimentary tickets, accreditation cards and close-proximity passes to the petitioner being the then Sports Minister and those complimentary tickets, accreditation cards and close-proximity passes were wrongfully sold for financial gain.
5. In connection with aforesaid criminal prosecution, notice under Section 35(3) of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short "BNSS, 2023") was issued on 1st June, 2026 to the petitioner which petitioner did not comply with and subsequently present writ petition is filed praying for quashing of criminal prosecution.
6. Mr. Mitra, learned Advocate General representing the State respondents submits that another notice

under Section 35(3) was issued subsequent to the notice dated 1st June, 2026 which was also not complied with by the petitioner.

7. It is contended on behalf of the petitioner that without any preliminary investigation aforesaid criminal prosecution was commenced.
8. Another limb of submission made on behalf of the petitioner is, Section 35(3) of BNSS, 2023 which grants protection to the petitioner from being incarcerated during continuation of investigation, if notice under Section 35(3) is complied with. At this stage prayer is made on behalf of the petitioner to grant protection to the petitioner subject to final result of the present writ petition.
9. Mr. Mitra, learned Advocate General has opposed this writ petition and it is brought to the notice of this Court in reference to the statements made in paragraph 26 of the writ petition that an anticipatory bail application was taken out before the learned Sessions Court, Barasat, North 24 Parganas by the petitioner and petitioner ought to have pressed that pre-arrest bail application before the Sessions Court.
10. In addition thereto, it is also contended that petitioner was Sports Minister at the material point of time when the incident took place on 13th December, 2025. Therefore, being an influential

person petitioner may intimidate witnesses affecting investigation.

11. According to the State respondents since two previous notices under Section 35(3) of BNSS were not complied with by the petitioner, he is not entitled to get protection as envisaged under Section 35(3).
12. Mr. Jana, learned advocate appears on behalf of respondent no.5 being the defacto-complainant and has also opposed this writ petition. It is submitted that considering the nature of allegation made against the petitioner, petitioner is not entitled to get interim protection during pendency of the writ petition.
13. According to the respondent no.5, for the sake of investigation, if investigating agency finds it apt, it may take the petitioner into custody.
14. Having considered the respective submissions made on behalf of the parties and taking note of the contents of the complaint dated 30th May, 2026, *prima facie* it appears that allegation of respondent no.5 centers around distribution of complimentary tickets, accreditation cards and close-proximity passes by the petitioner leading to unlawful financial gain.
15. Based on such complaint criminal prosecution was initiated under certain provisions of BNS, 2023,

out of which offences provided under Section 308(2) and Section 318(4) are albeit cognizable and non-bailable but prescribed punishment under both the sections are up to seven years.

16. Hence, Court finds at the stage of investigation if petitioner cooperates with the investigating agency and complies with the notices issued in connection therewith he is entitled to get protection under Section 35(3) of BNSS 2023.
17. It was argued on behalf of the State respondents that benefit contemplated under Section 35(3) may not be attracted herein since petitioner failed to comply with two previous notices under Section 35(3).
18. At this stage, Court is not *ad idem* with the submission made on behalf of the State respondents concerning extending benefit under Section 35(3) of BNSS 2023 due to failure of complying previous two notices in the event presence of the petitioner is ensured before the investigating agency for the sake of investigation in compliance of future notices to be issued by the concerned authority.
19. It is true that petitioner preferred pre-arrest bail application before the Sessions Court but mere filing of pre-arrest bail application does not impinge upon right of the petitioner to invoke

jurisdiction of this Court under Article 226 of the Constitution of India questioning initiation of aforesaid criminal prosecution. However, these observations are made based on *prima facie* consideration.

20. Another issue is also taken into consideration that incident took place on 13th December, 2025 whereas complaint was lodged by the respondent no.5 on 30th May, 2026 i.e. after declaration of result of Assembly Election, 2026 on 4th May, 2026 as well as after change of political dispensation.
21. In aforesaid conspectus, investigating agency is permitted to continue with the investigation in accordance with law.
22. Petitioner shall comply with notices to be issued by the investigating agency and shall appear before the investigating agency on a fixed date and time failing which State respondents shall be at liberty to bring it to the notice of this Court for passing appropriate order.
23. At least 48 hours notice shall be issued to the petitioner permitting him to appear before the investigating agency.
24. Petitioner shall not leave station without the permission of this Court.
25. Petitioner shall cooperate with the investigating agency for carrying out meaningful investigation.

26. Petitioner shall deposit his passport with the jurisdictional Court within seven days from date.
27. No coercive steps shall be taken against the petitioner without leave of this Court till 17th August, 2026 or until further order, whichever is earlier.
28. On the next date, Director General and Inspector General of Police, West Bengal being respondent no.2 is directed to submit a report disclosing progress made in the investigation as well as criminal proceedings, if any, pending against the petitioner apart from the present one.
29. Messi is a Soccer Legend who was slated to appear at the field of Yuba Bharati Krirangan on 13th December, 2025 in front of large number of spectators. However, on the date when this programme was scheduled Messi had to leave the field much prior to scheduled time due to security breach and it was seen on news media that large number of intruders were present at the field on 13th December, 2025 when the programme was organized.
30. Thousands of Messi fans purchased tickets to witness presence of their hero at the field but early exit of Messi from the field shattered their dreams. It was a complete fiasco in organizing such event at Yuba Bharati Krirangan Kolkata.

31. However, in three other metro cities, Hyderabad, Mumbai and Delhi similar programmes were organized seamlessly. Failure to organize the programme left a blot on the image of this city (Kolkata).
32. While granting interim protection to the petitioner, this Court cannot shut its eyes to such Messi event fiasco; conscience of this Court leads to pass a direction upon the Commissioner of Police, Bidhannagar Police Commissionerate to make an independent enquiry as to why the event could not be organized appropriately on 13th December, 2025 and submit a report by four weeks from date.
33. List the matter under the same heading for further consideration on 4th August, 2026.

(Saugata Bhattacharyya, J.)