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ss/jks 27.09.2022

**WPA(P) 470 of 2022
With
CAN 1 of 2022**

**Sukanta Ghosh
Vs.
State of West Bengal & Ors.**

Mr. Subir Sanyal
Mr. Smarajit Roychowdhury
Mr. Swatarup Banerjee
Mr. Billwadal Bhattacharyya
Mr. Soumya Majumder
Mr. Lokenath Chatterjee
Mr. Rivu Dutta
Mr. Kaustav Das
Ms. Aparna Banerjee
Mr. Kashinath Bhattacharyya
Mr. Pradip Kumar Mondal
Mr. Subhajit Das
Mr. Anish Kumar Mukherjee
Mr. Amrit Singha
Ms. Ranjana Chatterjee

... ... for the petitioner

Mr. S.N. Mookherjee, AG
Mr. A. Ray, GP
Mr. Debasish Ghosh
Mr. Varun Kothari

... ... for the State

The affidavit-in-reply on behalf of the petitioner against the report in the form of affidavit dated 19th September, 2022 is taken on record.

The State has also filed two separate responses to the supplementary affidavit filed by the petitioner.

Submission of learned counsel for the petitioner is that since only a peaceful march was to be organized, therefore intimation was given to the concerned authority and there was no question of seeking any permission or denial of permission in that regard. He submits that in relation to the incident which took place during the march the State police is still arresting the members of

the political party which had organized the march. He has submitted that those who are arrested are being tortured by the police to extract the information which is not permissible and that the police could at the most have regulated the march and nothing more. He has also submitted that video-clips are available in respect of the police excess while taking action against the participants in the rally but no action has been taken till now against those police personnel who had crossed their limits. He has further submitted that the police authorities should not be permitted to arrest the members of the political party which had organized the rally without the leave of the Court.

Learned Advocate General has submitted that all those who are arrested in connection with the rally under Section 151 of the Cr.P.C. have already been released and there can be no blanket order preventing the arrest of the members of the particular party though they may be involved in connection with the violence.

We have heard the learned counsel for the parties on the issue of interim protection.

The order of the learned ACMM, Kolkata dated 22nd September, 2022 has been brought to our notice wherein learned counsel for the accused Ganesh Bauli had submitted that the said accused was brutally tortured and beaten by stick/rule and also by fists, blows and kicks on his chest and abdomen on 21st September, 2022 at night in police custody. Considering this submission,

learned ACMM, Kolkata had directed the IO to get all nine accused persons medically examined within 24 hours in the presence of the learned advocate or to videograph the entire process of each and every medical examination of the accused persons and submit video in pen-drive before the Court.

Learned Advocate General is directed to produce the medical report of those accused persons for the perusal of this Court on the next date of hearing.

So far as the issue of arrest in connection with the rally, we had already directed by the order dated 13th September, 2022 that all State authorities will ensure that no unnecessary arrest is made and no person is unnecessarily detained in connection with the rally.

Hence, we expect that State authorities will have due regard to the order already passed by this Court. Otherwise they will run risk of strict action in case of its violation.

Learned Advocate General has stated that if the petitioner discloses the names and details of the persons who have been unnecessarily arrested in connection with the rally, then he will duly look into it.

Learned Advocate General may also respond to the submission of the leaned counsel for the petitioner by way of affidavit in respect to the action taken against the police officers who had allegedly acted in excess of their power.

Learned Advocate General seeks time to respond to the affidavit-in-reply on behalf of the petitioner filed today. While submitting the said response, learned Advocate General may cover the aforesaid aspect of the matter.

List on 7th November, 2022.

(Prakash Shrivastava, C.J.)

(Rajarshi Bharadwaj, J.)