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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Reserved on: 31.01.2024***
Pronounced on: 07.02.2024

\+ **BAIL APPLN. 76/2024**

SANJAY SINGH ..... Petitioner

Through: Mr. Mohit Mathur, Sr. Advocate along with Mr. Rajat Bhardwaj, Mohd. Irshad, Mr. Harsh Gautam, Ms. Ankita M. Bhardwaj, Mr. Kanishk Raj and Mr. Kaustubh Khanna, Advocates

versus

DIRECTORATE OF ENFORCEMENT ..... Respondent

Through: Mr. S.V. Raju, ASG along with Mr. Zoheb Hossain, Special counsel for ED along with Mr. Vivek Gurnani, Mr. Samrat Goswami, Mr. Kartik Sabharwal, Mr. Pranjal Tripathi, Ms. Madhumita, Ms. Sonali Sharma, Mr. Hitharth and Mr. Kanishk Maurya, Advocates for ED.

CORAM:
HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

J U D G M E N T

INDEX TO THE JUDGMENT

SWARANA KANTA SHARMA, J.

1. By way of present application under Section 439 of the Code of Criminal Procedure, 1973 (*'Cr.P.C.'*) read with Sections 45 and 65 of the Prevention of Money Laundering Act, 2002 (*'PMLA'*), the applicant Sh. Sanjay Singh seeks grant of regular bail in case arising out of ECIR No. ECIR/HIU-II/14/2022, registered under Sections 3 and 4 of PMLA.

BACKGROUND OF THE CASE

2. The present case has been registered by the Directorate of Enforcement in relation to the predicate offence case registered by the Central Bureau of Investigation (*'CBI'*). On 17.08.2022, an FIR i.e. RC0032022A0053 had been registered by the CBI for offences punishable under Section 120B read with Section 447A of the Indian Penal Code, 1860 (*'IPC'*) and Section 7 of Prevention of Corruption Act, 1988, (*'PC Act'*) on the basis of a complaint dated 20.07.2022 made by the Lieutenant Governor, GNCTD and the directions of competent authority conveyed by Director, Ministry of Home Affairs (*'MHA'*), Government of India, through letter dated 22.07.2022 and also based on some sourced information, in relation to the irregularities committed in framing and implementation of excise policy of GNCTD for the year 2021-2022. The CBI had filed a chargesheet dated 25.11.2022, cognizance of which was taken by the learned Trial Court on 15.12.2022. Thereafter, on 25.04.2023 and 08.07.2023, two supplementary chargesheets had also been filed

before the learned Trial Court respectively, against a total of 16 accused persons. It is the case of CBI that while the excise policy of GNCTD was at the stage of formulation or drafting, the accused persons had hatched a criminal conspiracy, in furtherance of which some loopholes had intentionally been left or created in the policy, which were meant to be utilized or exploited later on. Further, huge amount of money was paid as kickbacks in advance to the public servants involved in the commission of alleged offences and in exchange of undue pecuniary benefits to the conspirators involved in the liquor trade. As alleged, kickbacks of around Rs. 20-30 crores in advance were paid to accused Vijay Nair, Sh. Manish Sisodia and some other persons belonging to the ruling political party in Delhi, and the other public servants involved in conspiracy by some persons in the liquor business from South India and these kickbacks were found to have been returned back to them subsequently out of the profit margins of wholesalers holding L-l licenses and also through the credit notes issued by the L-l licensees to the retail zone licensees (L-7Z) related to the South liquor lobby. It is further alleged that as a result of criminal conspiracy, a cartel was formed between three components of the said policy, i.e. liquor manufacturers, wholesalers and retailers, by violating provisions and the spirit of liquor policy, and all the conspirators had played an active role to achieve the illegal objectives of the said criminal conspiracy, result in huge losses to the Government exchequer and undue pecuniary benefits to the public servants and other accused involved in the said conspiracy.

3. The present ECIR No. ECIR/HIU-II/14/2022 was registered,

as offences under Section 120B and Section 7 of the PC Act are scheduled offences under PMLA. The first prosecution complaint by the Directorate of Enforcement was filed on 26.11.2022 and the cognizance was taken by the learned Trial Court on 20.12.2022. Thereafter, Directorate of Enforcement had filed four supplementary prosecution complaints on 06.01.2023, 06.04.2023, 27.04.2023, and 04.05.2023 before the learned Trial Court.

4. However, the present applicant was arrested in relation to the present case on 04.10.2023 and was been produced before the learned Trial Court on 05.10.2023, whereby, he was remanded to custody of Directorate of Enforcement for a period of five days and three days *vide* orders dated 05.10.2023 and 10.10.2023. Thereafter, the present applicant was sent to judicial custody and is presently confined in Central Jail, Tihar, Delhi. Directorate of Enforcement has filed supplementary complaints qua the present applicant and other co-accused persons, 02.12.2023 and 19.12.2023 before the learned Trial Court.

5. The application for grant of regular bail preferred by the applicant herein, was dismissed by the learned Sessions Court *vide* order dated 22.12.2023, which has been impugned before this Court.

SUBMISSIONS ON BEHALF OF THE APPLICANT

6. Sh. Mohit Mathur, learned Senior Counsel appearing on behalf of the applicant argues that the applicant herein has been in judicial custody since 04.10.2023. It is argued that as per Section 19 of

PMLA, the concerned officer must have 'material in possession' and that the said expression must be confined, circumscribed and limited to legally admissible evidence of sterling quality and unimpeachable character, and based on this, 'reasons to believe' could be recorded in writing that the arrestee is 'guilty' of the offence punishable under Section 4 of PMLA. It is argued that the Directorate of Enforcement in the present case is primarily relying upon the statements of four witnesses against the present applicant, whose statements are doubtful as there are material contradictions in the said statements and as per law, the veracity of the statements of the witnesses must not be in doubt.

7. Learned Senior Counsel argues that the applicant has been solely arrested on the basis of the disclosure statement of one Sh. Dinesh Arora, who has turned an approver, and has been granted pardon on 03.10.2023. It is submitted that the said statements are contradictory and thus, cannot be considered by the Court as the same lack corroboration on material particulars, and no independent evidence has been collected by the investigating agency apart from the blatant and incriminating statements of the co-accused turned approver Sh. Dinesh Arora. It is submitted that there are multiple versions and contradictions in the statements of witnesses, and placing sole reliance for the arrest of the present applicant on the statements of co-accused turned approver Sh. Dinesh Arora is unjust, unfair and arbitrary. It is stated that it was in his tenth and eleventh statement that the approver Dinesh Arora had levelled such allegations, which were also recorded after he had been arrested by

the Directorate of Enforcement. Thus, it is clear that the present applicant has been implicated only after Dinesh Arora was arrested in July, 2023 and such statements have been made under an arrangement with the Directorate of Enforcement.

8. It is further argued that the false and frivolous allegation levelled regarding Rs. 2 crores being handed over to the applicant or 'his persons' has not been mentioned in the predicate offence and in absence of the same in the predicate offence, it cannot be said that the said amount is proceeds of crime. Further, it is argued that the story of prosecution even to this effect does not find any corroboration from the statements of concerned co--accused Sameer Mahandru and Abhishek Boinpally, from whom the above amounts of Rs. 1 crore each are being alleged to have been originated or were part of the amounts paid by them to or collected by the approver Dinesh Arora through some other persons. It is argued that even the exact quantum of alleged proceeds of crime was neither identified nor recovered from the applicant. In these circumstances, custodial interrogation was sought to establish a money trail which clearly establishes that before the arrest there was no 'material in possession' with the investigating agency to record 'reasons to believe' that the applicant is 'guilty' of an offence under PMLA. It is further argued by learned Senior Counsel that upon cumulative reading of the facts, events and allegations in the prosecution's case it is evident that the applicant has been arrested based on presumption, assumption, notion or belief based on mere statements of Dinesh Arora who is none other than an accomplice. Moreover, reliance on the statements of Dinesh Arora is

fraught with peril and under no circumstances can be the sole basis to conclude the guilt of the applicant under Section 19 of PMLA.

9. Learned Senior Counsel further argues that the applicant can only be enlarged on bail pursuant to the fulfilment of the mandatory twin conditions for the grant of bail under Section 45 of the PMLA, and unless the Court is satisfied that there are reasonable grounds to believe that the applicant is guilty of such offence. However, the rigours of Section 45 of PMLA do not come into the picture for the grant of bail to the present applicant as even from the alleged evidence against the applicant, it can be seen that the prosecution has failed to lay down the foundation which is required to be laid down for the applicability of twin conditions under Section 45 of the PMLA as there are no such reasonable grounds to believe can be said to have been made out from the above the allegations made and evidence collected against the applicant.

10. It is submitted that the allegations levelled against the applicant that on 18.06.2020, a Memorandum of Understanding (*'MoU'*) had been prepared at the behest of the present applicant is entirely false and frivolous. Interestingly, the alleged MoU does not bear signatures of anyone and thus is concocted evidence prepared by the investigating agency and cannot be relied upon to decide the present bail application, as argued by Sh. Mathur.

11. It is also argued by Sh. Mohit Mathur, learned Senior Counsel appearing on behalf of the applicant that the present applicant is neither named nor charge-sheeted in the case involving predicate registered by the CBI. There is no recovery from the applicant of any

proceeds of crime or other incriminating article or substance that has been effected from his possession or his residence by the respondent. Therefore, it is prayed that the applicant be granted regular bail.

SUBMISSIONS ON BEHALF OF RESPONDENT

12. On the other hand, Sh. S.V. Raju, learned Additional Solicitor General (ASG), appearing on behalf of the Directorate of Enforcement, vehemently opposes the present bail application and argues that grant of bail to an accused in case of money laundering is subject to the bar and rigors in the form of twin conditions laid down in Section 45 of PMLA. If the applicant fails to satisfy the Court that the applicant is not guilty of the offence or that he is not likely to commit any offence while on bail, his application is liable to be dismissed. It is argued that the present applicant is one of the key conspirators in the *Delhi Liquor Scam*. It is further argued that the applicant herein is closely associated with a number of accused persons including Dinesh Arora and Amit Arora. The applicant has also gained illegal money/kickbacks which are proceeds of crime generated from the Excise Policy 2021-22 scam. It is further argued by Sh. S. V. Raju that the evidence collected by the investigating agency against the applicant links him with proceeds of crime to the extent of Rs. 2 crores, and thus, the twin conditions of Section 45 of the PMLA are not satisfied.

13. It is further argued that the applicant has received proceeds of crime to the extent of Rs. 2 crore, which amount had been delivered

to the applicant in two instalments of Rs 1 crore each by one Raman Chawla, and it has been duly stated by Ramam Chawla is his statement recorded under Section 50 of PMLA. As per the said statement and other material available on record, the above amounts were delivered to co-accused Sarvesh Mishra, charge-sheeted along with the applicant through the fifth supplementary prosecution complaint, and Sarvesh Mishra had earlier worked as personal assistant of the applicant in the year 2022 and is a close associate of the applicant. The amount to the tune of Rs. 1 crore was delivered to the applicant on two different occasions and the same was a part of the amounts of Rs. 3 crore and Rs. 4 crore collected by the approver Dinesh Arora at the instance of Vijay Nair from the South liquor lobby as part of the above bribe or advanced kickbacks and thus, the said amounts are certainly the proceeds of crime relating to the commission of criminal activities of the scheduled offences case. The above statements of one Raman Chawla collaborate with the statements of other witnesses namely Harinder Singh and Earla Chandan Reddy under Section 50 of PMLA, besides the statements of approver Dinesh Arora made under Sections 164 of Cr.P.C and Section 50 of PMLA and the same gets sufficient corroboration from the documentary evidence collected in the form of CDRs with the location charts of mobile phones of Raman Chawla and co-accused Sarvesh Mishra. It is further argued that both the above payments of Rs 1 crore were made by the witness Raman Chawla at the official residence of the applicant in North Avenue, New Delhi and the location of this witness at the said place, along with the location of

the co-accused Sarvesh Mishra at the time of delivery of one such installment duly corroborates his claims.

14. Learned ASG further argues that the applicant has also been involved in the conspiracy of extending favours to private persons in the formulation of earlier Excise Policy 2020-21 as during the investigation, it has been revealed that the present applicant had assured to affect changes through Sh. Manish Sisodia in the proposed Excise Policy of 2020-21 to increase the brand registration criterion for IMFL brands at the behest of Amit Arora and Dinesh Arora. In exchange for this, an associate of the present applicant i.e. Vivek Tyagi had been given stakes in the business concern of Amit Arora i.e. M/s Aralias Hospitality Pvt. Ltd. It is stated that Vivek Tyagi has been a close associate of the applicant for the last 10 years. It is further argued by the learned ASG that as per the disclosure made by the approver Dinesh Arora, one Memorandum of Understanding dated 18.06.2020 was also prepared to this effect by the applicant. The said MoU concerned the previous excise policy, but the same had been prepared and sought to be executed to influence the subsequent excise liquor policy of the year 2021-22 also, which is under investigation and is the subject matter of present prosecution. It is argued that the above MoU was recovered during the investigation and though it could not be executed due to certain reasons, but there is sufficient oral evidence in the form of statements made by some of the witnesses and accused, including the approver, on different aspects surrounding the preparation of said MoU to show that the applicant was actively involved in formulation of the above excise

policy and deciding the terms thereof to suit the requirements of stakeholders thereof against payment of some bribe or kickbacks in the form of getting or giving stake in the above firm.

15. Learned ASG further argues that the statements made under Section 50 of PMLA by the witnesses against the applicant are admissible in evidence and the same cannot be discarded at this stage and has to be considered by this Court as the present application is for the grant of bail. It is submitted that the statements made under Section 50 of PMLA stand on a higher footing than the statement made to the police officials under Section 161 of Cr.P.C. and the credibility of the statements cannot be looked into at this stage, which is a matter of trial. It is further argued that irrespective of the applicant not being named in the FIR of the case of the scheduled offence or not being charge-sheeted in the said case, but since the case of money laundering is a stand-alone offence, the present applicant can very well be prosecuted and tried for the said offence independent of his involvement or prosecution in the scheduled offences case of CBI.

16. It is further vehemently argued by learned ASG, that the present applicant has not been cooperating with the investigation as the applicant has been evading questions and that the applicant has also tried to intimidate the Investigating Officer by threatening to file a defamation case against an evident bonafide typographical error made in the charge sheet filed by the Investigating Officer. Therefore, it is prayed that regular bail be denied to the applicant herein.

17. This Court has heard arguments addressed by Sh. Mohit Mathur, learned Senior Counsel for the accused/applicant and by Sh. S.V. Raju, learned ASG appearing on behalf of the respondent. The material placed on record by both the parties has also been pursued and considered.

LAW ON GRANT OF BAIL IN CASES OF MONEY LAUNDERING

18. For the purpose of considering bail in case of money laundering, Section 45 of PMLA is relevant, which reads as under:

> "45. Offences to be cognisable and non-bailable.
>
> (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), no person accused of an offence under this Act shall be released on bail or on his own bond unless-
>
> (i) the Public Prosecutor has been given a opportunity to oppose the application for such release; and
>
> (ii) where the Public Prosecutor opposes the application, the court is satisfied that **there are reasonable grounds for believing that he is not guilty of such offence** and that **he is not likely to commit any offence while on bail**:
>
> Provided that a person, who, is under the age of sixteen years, or is a woman or is sick or infirm, or is accused either on his own or along with other co-accused of money-laundering a sum of less than one crore rupees may be released on bail, if the Special Court so directs:
>
> Provided further that the Special Court shall not take cognizance of any offence punishable under section 4 except upon a complaint in writing made by-

(i) the Director; or

(ii) any officer of the Central Government or a State Government authorised in writing in this behalf by the Central Government by a general or special order made in this behalf by that Government.

(1A) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), or any other provision of this Act, no police officer shall investigate into an offence under this Act unless specifically authorised, by the Central Government by a general or special order, and, subject to such conditions as may be prescribed.

(2) The limitation on granting of bail specified in sub-section (1) is in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force on granting of bail.

Explanation.--For the removal of doubts, it is clarified that the expression "Offences to be cognizable and non-bailable" shall mean and shall be deemed to have always meant that all offences under this Act shall be cognizable offences and non-bailable offences notwithstanding anything to the contrary contained in the Code of Criminal Procedure, 1973 (2 of 1974), and accordingly the officers authorised under this Act are empowered to arrest an accused without warrant, subject to the fulfillment of conditions under section 19 and subject to the conditions enshrined under this section."

(Emphasis Supplied)

I. MANDATORY TWIN CONDITIONS UNDER SECTION 45 OF PMLA: JUDICIAL PRECEDENTS

19. Section 45(1) of PMLA lists the twin conditions that must be satisfied before an accused can be enlarged on bail in a case of money laundering. In this context, it will be relevant to take note of

the observations of Hon'ble Apex Court in case of ***Vijay Madanlal Choudhary v. Union of India*** *2022 SCC OnLine SC 929*, on the satisfaction of mandatory twin conditions under Section 45 of PMLA, which are extracted hereunder:

> "387. Having said thus, we must now address the challenge to the twin conditions as applicable post amendment of 2018. That challenge will have to be tested on its own merits and not in reference to the reasons weighed with this Court in declaring the provision, (as it existed at the relevant time), applicable only to offences punishable for a term of imprisonment of more than three years under Part A of the Schedule to the 2002 Act. Now, the provision (Section 45) including twin conditions would apply to the offence(s) under the 2002 Act itself. The provision post 2018 amendment, is in the nature of no bail in relation to the offence of money-laundering unless the twin conditions are fulfilled. The twin conditions are that there are reasonable grounds for believing that the Accused is not guilty of offence of money-laundering and that he is not likely to commit any offence while on bail. **Considering the purposes and objects of the legislation in the form of 2002 Act and the background in which it had been enacted owing to the commitment made to the international bodies and on their recommendations, it is plainly clear that it is a special legislation to deal with the subject of money-laundering activities having transnational impact on the financial systems including sovereignty and integrity of the countries. This is not an ordinary offence. To deal with such serious offence, stringent measures are provided in the 2002 Act for prevention of money-laundering and combating menace of money-laundering**, including for attachment and confiscation of proceeds of crime and to prosecute persons involved in the process or activity connected with the proceeds of crime. **In view of the gravity of the fallout of money-laundering activities having transnational impact, a special procedural law for prevention and regulation,**

including to prosecute the person involved, has been enacted, grouping the offenders involved in the process or activity connected with the proceeds of crime as a separate class from ordinary criminals. The offence of money-laundering has been regarded as an aggravated form of crime "world over". It is, therefore, a separate class of offence requiring effective and stringent measures to combat the menace of money-laundering."

* * *

400. It is important to note that the twin conditions provided under Section 45 of the 2002 Act, though restrict the right of the accused to grant of bail, but it cannot be said that the conditions provided under Section 45 impose absolute restraint on the grant of bail. The discretion vests in the Court which is not arbitrary or irrational but judicial, guided by the principles of law as provided under Section 45 of the 2002 Act.

* * *

401. We are in agreement with the observation made by the Court in *Ranjitsing Brahmajeetsing Sharma*. **The Court while dealing with the application for grant of bail need not delve deep into the merits of the case and only a view of the Court based on available material on record is required. The Court will not weigh the evidence to find the guilt of the accused which is, of course, the work of Trial Court. The Court is only required to place its view based on probability on the basis of reasonable material collected during investigation and the said view will not be taken into consideration by the Trial Court in recording its finding of the guilt or acquittal during trial which is based on the evidence adduced during the trial.** As explained by this Court in *Nimmagadda Prasad*, the words used in Section 45 of the 2002 Act are "reasonable grounds for believing" which means the Court has to see only if there is a genuine case against the accused and the prosecution is not required to prove the charge beyond reasonable doubt."

(Emphasis Supplied)

20. In case of ***Tarun Kumar v. Enforcement Directorate*** *2023 SCC OnLine SC 1486*, the Hon'ble Apex Court had held as under:

> "17. As well settled by now, **the conditions specified under Section 45 are mandatory. They need to be complied with. The Court is required to be satisfied that there are reasonable grounds for believing that the accused is not guilty of such offence and he is not likely to commit any offence while on bail.** It is needless to say that as per the statutory presumption permitted under Section 24 of the Act, the Court or the Authority is entitled to presume unless the contrary is proved, that in any proceedings relating to proceeds of crime under the Act, in the case of a person charged with the offence of money laundering under Section 3, such proceeds of crime are involved in money laundering. Such conditions enumerated in Section 45 of PML Act will have to be complied with even in respect of an application for bail made under Section 439 Cr. P.C. in view of the overriding effect given to the PML Act over the other law for the time being in force, under Section 71 of the PML Act."
>
> (Emphasis Supplied)

21. Thus, at the stage of consideration of **bail** of a person who is accused of commission of offence of money laundering under PMLA, the Court is **not required to conduct a mini trial** for the purpose of returning a finding of guilt, rather the material on record is to be examined to reach a conclusion as to whether there are reasonable grounds to believe that the accused is guilty of offence under PMLA.

ANALYSIS & FINDINGS

I. EVIDENCE AGAINST THE PRESENT APPLICANT

Statement of Approver Dinesh Arora

22. This Court notes that in the present case, the statement of Sh. Dinesh Arora was recorded under Section 50 of PMLA on 14.08.2023, wherein he has disclosed that he had given Rs. 2 crores, Rs. 1 crore each time, to Sarvesh Mishra, at the residence of the present applicant Sh. Sanjay Singh in North Avenue, New Delhi, through his employee Raman Chawla. This Court notes that it has been specifically revealed that Rs.1 crore each were given, one in August, 2021 and other between March-April, 2022. He further stated that this amount of Rs. 2 crores was part of bribe received from Sameer Mahendrau and Abhishek Boinpally, i.e. Rs. 1 crore from each of them. Thus, he clarifies that Rs. 2 crores in cash were delivered for the present applicant Sh. Sanjay Singh, to Sarvesh Mishra, close associate of Sh. Sanjay Singh who stays with him at his official residence. He further clarifies that this money was given to him on the instructions of Vijay Nair. The statement further clarifies that, since this money was given at the asking of Vijay Nair, he had received a phone call from Vijay Nair and had met Sh. Sanjay Singh to confirm the same from him. Through his conversation, he had come to know that Sh. Sanjay Singh knew that this amount of Rs. 2 crores was the money of Delhi Excise Policy.

23. Further, Sh. Dinesh Arora has specifically revealed that he had received an amount of Rs. 3 crores from co-accused Sameer

Mahendru between August and October, 2021, in installments of Rs. 1 crore which was personally handed over to him by Sameer Mahendru in Khan Market, Delhi, while another Rs. 1 crore was delivered to him in his office in Hauz Khas, Delhi, through an intermediary. An additional amount of Rs. 1 crore was collected by his employee, Raman Chawla, from Sameer Mahendru's office in Okhla, Delhi. It was further revealed by Dinesh Arora that out of Rs. 3 crores received, Rs. 2 crores were transferred to one Narendra Bhaskar for use in Goa Elections at the asking of Vijay Nair, who was a close associate of Sh. Manish Sisodia and former communication incharge of Aam Aadmi Party. Remaining amount of Rs. 1 crore was paid to Sarvesh Mishra, at the residence of present applicant Sh. Sanjay Singh, as noted above.

24. Similarly, Sh. Dinesh Arora has disclosed further that in March and April 2022, again under Vijay Nair's instructions, who was communication Incharge of Aam Aadmi Party, he had collected Rs. 4 crores from co-accused Abhishek Boinpally, intended for diversion to party funds. According to Dinesh Arora's statement, he had coordinated with one Chandan Reddy, who assisted Abhishek Boinpally in these transactions. Dinesh Arora had personally collected Rs. 2 crores from Abhishek Boinpally's office, while another Rs. 2 crores were collected by one Harinder Singh Narula on his behalf. Out of this sum, Harinder Narula had delivered Rs. 3 crores at Vijay Nair's residence, and an amount of Rs. 1 crore was given to Sarvesh Mishra, through Raman Chawla, for the present applicant Sh. Sanjay Singh.

Statement of Witness Raman Chawla

25. The statement of the employee of Dinesh Arora i.e. Raman Chawla was recorded under Section 50 of PMLA on 16.08.2023 in which he had disclosed that he had collected Rs. 1 crore from the office of IndoSpirits in Okhla, Delhi, which is owned by co-accused Sameer Mahendru. This cash was received by him on instructions of Dinesh Arora and thereafter, acting on his directions, Raman Chawla had delivered Rs. 1 crore to Sarvesh Mishra at the official residence of the present applicant Sh. Sanjay Singh, located in North Avenue, New Delhi in August, 2021. He had disclosed that on reaching the residence of Sh. Sanjay Singh, he had contacted Sarvesh Mishra and Sarvesh had sent someone to collect the money from the front gate. He had further disclosed that again in March-April 2022, Dinesh Arora had called him and instructed him to deliver another sum of Rs. 1 crore to Sarvesh Mishra at the residence of present applicant Sh. Sanjay Singh.

Statements of Harinder Singh Narula and Earla Chandan Reddy

26. Regarding Dinesh Arora's claims of receiving a bribe amount of Rs. 4 crores from Abhishek Boinpally, it's noteworthy that statements from other witnesses corroborate Dinesh Arora's version provided to the investigating agency. Harinder Singh Narula, in his statement recorded on 07.08.2023, disclosed that in March-April 2022, Dinesh Arora had instructed him to visit Abhishek Boinpally's office in Defence Colony, Delhi, to collect Rs. 2 crores from a person named Chandan Reddy. He further disclosed that as per Dinesh

Arora's instructions, he had collected the sum from Abhishek Boinpally's office and had delivered it to Dinesh Arora's office in Hauz Khas, Delhi. Similarly, another witness, Chandan Reddy, in his statement dated 22.11.2023 confirmed providing Rs. 4 crores in cash to Dinesh Arora, as directed by Abhishek Boinpally, in March/April 2022.

27. Thus, the statements of Harinder Singh Narula and E. Chandan Reddy prima facie supports Dinesh Arora's claim of receiving Rs. 4 crores in cash from Abhishek Boinpally, on Vijay Nair's instructions. Furthermore, it is alleged that out of this amount, Rs. 1 crore was paid to the present applicant Sh. Sanjay Singh, through his close associate Sarvesh Mishra.

Call Detail Location Chart Analysis

28. The investigating agency has gathered additional evidence in the form of Call Detail Records and location charts of the mobile phone numbers belonging to witnesses Raman Chawla and Sarvesh Mishra. As per Directorate of Enforcement, these records indicate that at a specific point in time, both phone numbers were found under the nearest tower to the official residence of the present applicant Sh. Sanjay Singh, on 17.08.2021, when one installment of Rs. 1 crore was allegedly delivered by Dinesh Arora, through his employee Raman Chawla, to the present applicant Sh. Sanjay Singh at his official residence, facilitated by his associate Sarvesh Mishra.

Role of Applicant in 2020-21 Delhi Liquor Policy

29. Though the Directorate of Enforcement has mentioned at length, in its reply, the role of the present applicant in formulation of the earlier excise policy i.e. policy for the year 2020-2021, a detailed discussion on the same is not necessary while deciding the present bail application. Nevertheless, since the present case essentially revolves around hatching of conspiracy among the accused persons for generation of proceeds of crime through formulation of new excise policy, it will be relevant to take a brief overview of the allegations against the applicant qua the liquor policy of 2020-21.

30. In his statement recorded under section 50 PMLA as well as statement under Section 164 (5) of Cr.P.C., Dinesh Arora has given the background as to how he had met the present applicant Sh. Sanjay Singh in connection with the old Excise policy of 2020-2021 which clearly mentions that he had met Sh. Sanjay Singh at his residence and had specifically narrated the meeting which had taken place at the residence of Sh. Sanjay Singh alongwith Amit Arora, Sarvesh Mishra, Vivek Tyagi etc. In the said meeting with Sh. Sanjay Singh, Amit Arora had explained his business plan of liquor and a clause he wanted to change in the excise policy that suited him and his business. It was there that Sh. Sanjay Singh on the condition that Vivek Tyagi, who was close to him, who later became his parliamentary assistant, be made a partner in the liquor business with Amit Arora. Dinesh Arora also categorically states that Sh. Sanjay Singh had called him and Amit Arora at Sh. Manish Sisodia's house and as per the assurance given by Sh. Sanjay Singh, Sh. Sisodia had

agreed to change the clause in the Excise Policy of 2020-2021. A MoU in this regard was prepared, Vivek Tyagi was also made a business partner with Amit Arora and Dinesh Arora. He admits that this was done to ensure that Amit Arora would honour his word after change in excise policy was brought about and since Dinesh Arora did not trust Amit Arora. Due to some reason, this policy did not work out and the new policy 2021-2022 came into existence.

31. The above facts are also corroborated by the statements of co-accused Amit Arora and witness Ankit Gupta, recorded under Section 50 of PMLA.

32. Thus, *prima facie,* it is clear that the present applicant was part of preparation of the old excise policy and thereafter, the new excise policy was made to suit the co-accused(s) who were to pay kickbacks to the present applicant and co-accused(s) and the party concerned, from the profit so generated due to excise policy drafted to suit them and there are specific statements that Rs. 2 crores were paid to Sarvesh Mishra for Sh. Sanjay Singh at his official residence in lieu of the new excise policy made to suit them and generate profit for them, the role at this stage of the applicant cannot completely be ruled out. The specific allegations with time, place and manner when the meetings and conversations took place between Dinesh Arora, Vivek Tyagi, Sarvesh Mishra, Vijay Nair, Sh. Sisodia, Sh, Sanjay Singh etc. cannot be disregarded at this stage.

II. WHETHER THE APPLICANT IS ENTITLED TO BAIL ON THE GROUND THAT HE IS NOT AN ACCUSED IN THE SCHEDULED OFFENCE?

33. One of the primary arguments raised on behalf of the present applicant/accused Sanjay Singh is that he was not named in the FIR of the scheduled offence case of CBI, and he has not been charge-sheeted in the said case.

34. In this regard, this Court notes that the same argument has already been dealt with, in detail, by the learned Sessions Court in the impugned order dated 22.12.2023 whereby the learned Sessions Court, after considering various judicial precedents on the issue, observed that it is not a prerequisite for an individual to be named as an accused in the scheduled offence case to establish his involvement in a money laundering case. Rather, what is essential is that a scheduled offence must have been committed, and proceeds of crime in connection to that offence must have been generated to invoke the applicability of Section 3 of PMLA. The Sessions Court also noted that while the registration of a case under PMLA necessitates the commission of a scheduled offence, it is not always mandatory for an individual accused of money laundering to also be an accused in the scheduled offence. This Court concurs with the findings of the learned Sessions Court, as they align with the judicial precedents of the Hon'ble Apex Court.

35. In ***Vijay Madanlal Choudhary*** *(supra)*, the Hon'ble Apex Court had observed that the offence of money laundering is an

independent offence and has nothing to do with the criminal activities relating to a scheduled offence, except the proceeds of crime derived or obtained as a result of that crime; and that the ambit of Section 5(1) of PMLA is not limited to the accused named in the criminal activity relating to a scheduled offence. The relevant observations are as under:

> "269. From the bare language of Section 3 of the 2002 Act, **it is amply clear that the offence of money--laundering is an independent offence regarding the process or activity connected with the proceeds of crime which had been derived or obtained as a result of criminal activity relating to or in relation to a scheduled offence.** The process or activity can be in any form — be it one of concealment, possession, acquisition, use of proceeds of crime as much as projecting it as untainted property or claiming it to be so. Thus, involvement in any one of such process or activity connected with the proceeds of crime would constitute offence of money--laundering. **This offence otherwise has nothing to do with the criminal activity relating to a scheduled offence — except the proceeds of crime derived or obtained as a result of that crime**.
>
> * * *
>
> 295. As aforesaid, in this backdrop the amendment Act 2 of 2013 came into being. Considering the purport of the amended provisions and the experience of implementing/ enforcement agencies, further changes became necessary to strengthen the mechanism regarding prevention of money-laundering. It is not right in assuming that the attachment of property (provisional) under the second proviso, as amended, has no link with the scheduled offence. Inasmuch as Section 5(1) envisages that such an action can be initiated only on the basis of material in possession of the authorised officer indicative of any person being in possession of proceeds of crime. The precondition for being proceeds of crime is that the property has been derived or obtained, directly or indirectly, by any

> person as a result of criminal activity relating to a scheduled offence. The sweep of Section 5(1) is not limited to the accused named in the criminal activity relating to a scheduled offence. It would apply to any person (not necessarily being accused in the scheduled offence) if he is involved in any process or activity connected with the proceeds of crime. Such a person besides facing the consequence of provisional attachment order, may end up in being named as accused in the complaint to be filed by the authorised officer concerning offence under Section 3 of the 2002 Act."

36. While reiterating the aforesaid ratio, the Hon'ble Apex Court in case of ***Tarun Kumar*** *(supra)* has also held as under:

> "15. …Further, as held in Vijay Madanlal (supra), the **offence of money laundering under Section 3 of the Act is an independent offence regarding the process or activity connected with the proceeds of crime which had been derived or obtained as a result of criminal activity relating to or in relation to a scheduled offence.** The offence of money laundering is not dependent or linked to the date on which the scheduled offence or predicate offence has been committed. The relevant date is the date on which the person indulges in the process or activity connected with the proceeds of crime. Thus, the involvement of the person in any of the criminal activities like concealment, possession, acquisition, use of proceeds of crime as much as projecting it as untainted property or claiming it to be so, would constitute the offence of money laundering under Section 3 of the Act."

37. Recently, in case of ***Pavana Dibbur v. Enforcement Directorate*** *2023 SCC OnLine SC 1586*, the Hon'ble Apex Court has held that it is not necessary that a person against whom the offence under Section 3 of the PMLA is alleged must have been shown as the accused in the scheduled offence. The relevant observations are

extracted hereunder:

> "17. Coming back to Section 3 of the PMLA, on its plain reading, an offence under Section 3 can be committed after a scheduled offence is committed. **For example, let us take the case of a person who is unconnected with the scheduled offence, knowingly assists the concealment of the proceeds of crime or knowingly assists the use of proceeds of crime. In that case, he can be held guilty of committing an offence under Section 3 of the PMLA.** To give a concrete example, the offences under Sections 384 to 389 of the IPC relating to "extortion" are scheduled offences included in Paragraph 1 of the Schedule to the PMLA. An accused may commit a crime of extortion covered by Sections 384 to 389 of IPC and extort money. Subsequently, a person unconnected with the offence of extortion may assist the said accused in the concealment of the proceeds of extortion. In such a case, the person who assists the accused in the scheduled offence for concealing the proceeds of the crime of extortion can be guilty of the offence of money laundering. **Therefore, it is not necessary that a person against whom the offence under Section 3 of the PMLA is alleged must have been shown as the accused in the scheduled offence.** What is held in paragraph 270 of the decision of this Court in the case of Vijay Madanlal Choudhary supports the above conclusion. The conditions precedent for attracting the offence under Section 3 of the PMLA are that there must be a scheduled offence and that there must be proceeds of crime in relation to the scheduled offence as defined in clause (u) of sub-section (1) of Section 3 of the PMLA.
>
> 18. In a given case, if the prosecution for the scheduled offence ends in the acquittal of all the accused or discharge of all the accused or the proceedings of the scheduled offence are quashed in its entirety, the scheduled offence will not exist, and therefore, no one can be prosecuted for the offence punishable under Section 3 of the PMLA as there will not be any proceeds of crime. Thus, in such a case, the accused against whom the complaint under Section 3 of the PMLA is filed will benefit from the scheduled offence

> ending by acquittal or discharge of all the accused. Similarly, he will get the benefit of quashing the proceedings of the scheduled offence. **However, an accused in the PMLA case who comes into the picture after the scheduled offence is committed by assisting in the concealment or use of proceeds of crime need not be an accused in the scheduled offence. Such an accused can still be prosecuted under PMLA so long as the scheduled offence exists. Thus, the second contention raised by the learned senior counsel appearing for the appellant on the ground that the appellant was not shown as an accused in the chargesheets filed in the scheduled offences deserves to be rejected**."
>
> (Emphasis Supplied)

38. Furthermore, during the course of arguments, learned ASG representing the respondent had pointed out that the Directorate of Enforcement had already communicated and shared, *via* a letter dated 13.11.2023, under Section 66(2) of PMLA, information about the investigation regarding the facts of this case with the CBI. Further, the CBI had also written a letter dated 22.12.2023 to the ED, stating that the information shared by them has been taken on record for further investigation in the predicate offence case.

39. Therefore, at this stage, this Court finds no merit in the argument that applicant herein has not been made an accused in the scheduled offence.

III. ADMISSIBILITY AND AN EVIDENTIARY VALUE OF STATEMENTS RECORDED UNDER SECTION 50 OF PMLA

40. The statements referred above by this Court, of the approver Dinesh Arora, witnesses namely Raman Chawla, Harinder Singh

Narula and E. Chandan Reddy, as well as co-accused Amit Arora and witness Ankit Gupta, are statements recorded under Section 50 of PMLA.

41. As regards the admissibility of statements recorded under Section 50 of PMLA, it is relevant to note that in the case of ***Rohit Tandon v. Directorate of Enforcement****, (2018) 11 SCC 46*, three-judge bench of the Hon'ble Apex Court has held that such statements are admissible in nature and can make out a formidable case about involvement of accused in the offence of money laundering. The relevant observations of the Hon'ble Apex Court are as under:

> " 31. …The prosecution is relying on statements of 26 witnesses/accused already recorded, out of which 7 were considered by the Delhi High Court. **These statements are admissible in evidence, in view of Section 50 of the Act of 2002. The same makes out a formidable case about the involvement of the appellant in commission of a serious offence of money laundering. It is, therefore, not possible for us to record satisfaction that there are reasonable grounds for believing that the appellant is not guilty of such offence**…"
>
> (Emphasis Supplied)

42. The challenge to Section 50 of PMLA was rejected by the Hon'ble Apex Court in case of ***Vijay Madanlal Choudhary*** *(supra)*, wherein it was held that statements recorded under Section 50 of PMLA cannot be compared to statements under Section 67 of NDPS Act, and that such statements were not in violation of Article 20(3) of the Constitution of India.

43. The aforesaid legal propositions were also reiterated by the

Hon'ble Apex Court in case of ***Tarun Kumar*** *(Supra)* with following observations:

> "15. In our opinion, there is hardly any merit in the said submission of Mr. Luthra. In Rohit Tandon vs. Directorate of Enforcement, a three Judge Bench has categorically observed that the statements of witnesses/accused are admissible in evidence in view of Section 50 of the said Act and such statements may make out a formidable case about the involvement of the accused in the commission of a serious offence of money laundering ....."

44. At the present stage of deciding the bail application of the accused, when the trial has yet not commenced, this Court would be required to take into consideration the material collected by the investigating agency including statements of witnesses recorded under Section 50 of PMLA, and has held by the Hon'ble Apex Court, statements under Section 50 of PMLA can make out a formidable case of money laundering against an accused.

IV. FINDING REGARDING ARGUMENT OF DISREGARDING APPROVER'S STATEMENT AT THIS STAGE

45. The argument of learned counsel for the applicant that the statement of the approver is the only evidence available and rather created by Directorate of Enforcement to falsely implicate the petitioner cannot be dealt with, without referring to the law regarding the statement of the approver, who is otherwise a co-accused, later granted pardon after he turns approver. In this regard, this Court

refers to the law regarding approver.

Law on the Evidence of Approver

46. For the purpose of analysing the concept of approver and the evidentiary value of approver's testimony, it will be necessary to first examine the statutory provisions of law, dealing with the said issue. Section 133 coupled with Illustration (b) to Section 114, precisely, covers the law on point. These are reproduced hereunder:

> "**Section 133. Accomplice** - An accomplice shall be a competent witness against an accused person; and a conviction is not illegal merely because it proceeds upon the uncorroborated testimony of an accomplice."
>
> **Illustration (b) to Section 114**
>
> (b) The Court may presume that an accomplice is unworthy of credit, unless he is corroborated in material particulars."

47. Privy Council in the case of ***Bhuboni Sahu v. King***, reported as *1949 SCC OnLine PC 12*, had observed as under:

> "The law in India relating to the evidence of accomplices stands thus: Even before the passing of the Indian Evidence Act, 1872, it had been held by a Full Bench of the High Court of Calcutta in ***R. v. Elahee Buksh (1866) 5 W.R. (Cr) 80***, that the law relating to accomplice evidence was the same in India as in England. Then came the Indian Evidence Act which by S. 133 enacts that:
>
> "An accomplice shall be a competent witness against an accused person; and a conviction is not illegal merely because it proceeds upon the uncorroborated testimony of an accomplice."

> Illustration (B) to S. 114, Evidence Act, however, provides that:
>
> "The Court may presume that an accomplice is unworthy of credit unless he is corroborated in material particulars."
>
> Reading these two enactments together, the Courts in India have held that whilst it is not illegal to act upon the uncorroborated evidence of an accomplice it is a rule of prudence so universally followed as to amount almost to a rule of law that it is unsafe to act upon the evidence of an accomplice unless it is corroborated in material respects so as to implicate the accused; and further that the evidence of one accomplice cannot be used to corroborate the evidence of another accomplice. The law in India, therefore, is substantially the same on the subject as the law in England, though the rule of prudence may be said to be based upon the interpretation placed by the Courts on the phrase "corroborated in material particulars" in Illustration B to S. 114.

48. This was also held by the Hon'ble Apex Court in the case of ***Bhiva Doulu Patil v. State of Maharashtra*** *(1963) 3 SCR 830*, by way of following observations:

> "The combined effect of Sections 133 and Illustration (b) to Section 114, may be stated as follows:
>
> According to the former, which is a Rule of law, an accomplice is competent to give evidence and according to the latter, which is a Rule of practice it is almost always unsafe to convict upon his testimony alone. Therefore, though the conviction of an accused on the testimony of an accomplice cannot be said to be illegal yet the courts will, as a matter of practice, not accept the evidence of such a witness without corroboration in material particulars."

49. Further, Section 306 of Cr.P.C primarily deals with grant of pardon, with the view to obtaining evidence, by a magistrate at any stage of a trial on the condition that the person being granted pardon shall make full and true disclosure of the whole circumstances within his knowledge, related to the offence and to every other person concerned with it.

Consideration of Approver's Statement In This Case

50. The argument of the learned Senior counsel for the applicant primarily rests on the ground that there is nothing on record except the statement of the approver which is also procured under extraneous reasons and circumstances and therefore, there is nothing legal on record which could be even termed as incriminating against the accused and he has been falsely implicated in this case. Thus, the stress is on the argument that the statement of the approver cannot be relied upon even at this stage as it cannot be termed as incriminating against the accused to connect him with the alleged offence.

51. This Court, in this regard, notes that this Court is not examining the constitutional validity of the provision regarding statement of the approver or its evidentiary value but the misuse of it in the present case. In this regard, this Court holds that the approver in the present case was not examined by the officials of Directorate of Enforcement alone under Section 50 of PMLA, which otherwise is admissible in law, but there are statements recorded under Section 164(5) of Cr.P.C. which are recorded before a Magistrate who is legally bound to adopt procedure laid down by law to record such

statements. To mention the same, the approver's statement is recorded in the following manner:

> "Statement of X… u/s 164(5) Cr.PC
>
> Without oath
>
> The accused/witness has been informed that he is not bound to make the statement and he has been duly cautioned that if he chooses to make the statement, the same can be used against him.
>
> The accused has not complained of any custodial torture. He has been produced from judicial custody. There appears to be no visible physical injury marks on his face or otherwise. I have questioned him generally for about 15 minutes, in order to ascertain his voluntariness qua the said statement and having heard him, I am of the opinion that the accused/witness is making the statement voluntarily. I shall thus proceed to record the statement…
>
> Certificate of correctness
>
> -Sd/-"

52. The law has attached sanctity to the statements recorded under Section 164 of Cr.P.C. as well as Section 50 of PMLA. The constitutional validity of Section 50 was challenged before the Hon'ble Apex Court, however, the challenge was rejected as is mentioned in para no. 42 of this judgment.

53. The approver has also disclosed in his statement under Section 50 of PMLA that he had not disclosed the names of political leaders since he had been threatened by Sh. Vijay Nair, who is former communication incharge, Aam Aadmi Party in London in August, 2022 that going against Deputy CM or the present applicant Sh. Sanjay Singh or other big political leaders will give a lot of trouble to him and to his business. This Court notes that in the statements

recorded under Section 164(5) of Cr.P.C. before the learned Additional Chief Metropolitan Magistrate on 19.07.2023 and 26.07.2023, approver Dinesh Arora he had also mentioned that he had been threatened by Vijay Nair not to name any political leader and therefore, he had not disclosed their specific names i.e. of the present applicant and the factum of cash transactions which he had disclosed in the statement recorded under Section 50 of PMLA on 14.08.2023. This Court notes that the approver also mentions that after another person Sarath Reddy had turned approver, he had gathered courage to also disclose the truth as despite turning approver, no harm was caused to Sarath Reddy.

54. Therefore, the argument that the approver had disclosed the name of the present applicant under some threat without there being any complaint or retraction of statement by the approver is bound to be rejected.

55. The approver has not come forward to any Court of law to state that the statements so recorded were made under any stress or pressure or threat. The approver and his statements will be put to test of cross-examination and the evidentiary value of the statement will be adjudged on the touchstone of the cross-examination itself. Therefore, a statement recorded by a Magistrate as per law of a person who has now turned approver, was earlier an accomplice or accused, cannot be disregarded at this stage on the ground that his statement is unworthy of credence or there are reasons or motives to falsely implicate the present applicant.

56. This Court, therefore, notes that the sanctity attached to a

statement recorded under Section 164 of Cr.P.C., now termed as a statement of the approver, cannot be thrown at the threshold or disregarded for the purpose of consideration as to whether there is material on record, which within the parameters of PMLA, will disentitle the accused to grant of bail when tested on the anvil of Section 45 of PMLA to pass the test of twin conditions for grant of bail.

57. No doubt the Courts have been cautioned to treat the evidence of the co-accused with circumspection and consider any incentive that the co-accused would have in implicating the accused or as to whether the co-accused has a motive to frame him. However, it is only at the relevant stage of trial that a consideration in this regard is to be made by the learned Trial Court.

58. The law on point of testimony of approver and its evidentiary value is neither unclear nor uncertain. The purpose of statement of an approver is to allow admission of this evidence subject to the relevant law on this point where the interest of justice dictates its reception. It does not however affect the right of the accused to challenge the admissibility of such evidence. However, the adjudication and the final decision on the same has to be given at the relevant stage of trial as laid down under the law and judicial precedents.

59. While shifting blame from oneself to another to avoid conviction may not be uncommon in a criminal justice system at this stage of consideration of bail. It is *prima facie* clear that the approver has not been compelled to testify against the present accused. The present accused will as per law have the right to challenge the

truthfulness of the incriminating part of the statement of the approver to effectively nullify it qua himself by cross-examination.

60. The criminal justice system has stages of trial as well as the pre-trial proceedings. A Court of law has to conduct both within the confines of enacted law. Thus the argument of the learned counsel regarding the case being based solely on the testimony of the approver and therefore, being devoid of any merit or truth, is attractive at a first glance, however, not legally tenable at the stage of consideration of bail.

61. Whether the statement of the approver suffers from infirmity clearly demonstrable by virtue of bias, pressure, threat, coercion etc. will be clear and proved during trial and at this stage, no finding can be given to give benefit of its lack of evidentiary value or falsehood to grant bail to the accused.

62. The law regarding such admissibility and the stage when such admissibility can be examined and adjudicated has not been carved out by this Court, but by the enactment of the provisions of Code of Criminal Procedure and Indian Evidence Act and catena of judgments of the Hon'ble Apex Court in this regard.

63. It is also important to note that there are statements of other witnesses, independent of the approver, which corroborate the case of Directorate of Enforcement as well as of the stance of the approver which have been discussed in detail in the preceding paragraphs. Allegations are specific regarding date, day, time and place.

V. THE COURT IS BOUND BY LAW, AND CANNOT BE INFLUENCED BY THE POSITION OF ANY PETITIONER

64. It is mentioned in ground 'R' of the petition that the applicant is victim of witch-hunt and Standard Modus Operandi adopted by Enforcement Directorate to implicate it's given targets wherein the Enforcement Directorate uses illegal measures for recording the statements as per the wish and fancies of the Enforcement Directorate to implicate a targeted person.

65. In this regard, this Court holds that the courts function within the framework of law, and its decisions are guided solely by legal principles and evidence presented, independent of the petitioner's or respondent's position or influence. The judiciary is committed to upholding the rule of law and ensuring impartiality in the administration of justice. Regardless of the status or standing of the petitioner or the respondent, the Court remains steadfast in its duty to interpret and apply the law fairly and without bias.

66. In the eyes of the law, it is of paramount importance to maintain impartiality and treat all individuals equally, regardless of their status as public figures or private citizens. While public figures may wield influence or hold positions of authority, their legal rights and obligations are subject to the same standards and principles as those of any other individual in society.

67. The principle of equality before the law is based on the notion that justice should be blind to factors such as fame, wealth, or social standing. At the same time, orders are not passed only at the asking

of the State but through legal proceedings and outcomes are determined solely based on the merits of the case and the application of relevant laws, without favouritism or discrimination.

CONCLUSION

68. At this stage, the evidence which is available against the present accused/applicant can be summarized as follows:

i. Statement of approver Dinesh Arora, recorded under Section 164 of Cr.P.C. and Section 50 of PMLA, revealing that he had delivered a sum of Rs. 2 crores to the associate of the present applicant Sh. Sanjay Singh, namely Sarvesh Mishra, upon the directions of Vijay Nair, who is former communication in-charge, Aam Aadmi Party. These funds were delivered at the official residence of the present applicant and the applicant in his subsequent meeting with Dinesh Arora confirmed receipt of the cash amount.

ii. Statement of Raman Chawla, who disclosed delivering two separate amounts of Rs. 1 crore each, in coordination with Sarvesh Mishra, at the official residence of present applicant Sh. Sanjay Singh on instructions from Dinesh Arora, thus, corroborating statement of Dinesh Arora.

iii. Corroboration of Raman Chawla's statement through call

detail records and phone location analysis, indicating alignment with Sarvesh Mishra's location on the same day i.e. 17.08.2021, when Raman Chawla had visited the official residence of the present accused/applicant, to deliver the first installment of Rs. 1 crore in August, 2021.

iv. Statements of Harinder Singh Narula and Chandan Reddy, which corroborates Dinesh Arora’s claim regarding the source of Rs. 1 crore paid to the present applicant, originating from Rs. 4 crores received from Abhishek Boinpally.

v. Statements of approver Dinesh Arora, co-accused Amit Arora, and witness Ankit Gupta, recorded under Section 50 of PMLA, along with the recovery of a memorandum of understanding dated 18.06.2020, which indicates the involvement of the present applicant in shaping the earlier 2020-2021 Delhi Excise Policy and the alleged conspiracy to receive illegal gratification in exchange for introducing favorable clauses in the policy to benefit certain businessmen and the meetings which took place at his residence and at the residence of co-accused with assurance of change of clause of Excise Policy of 2020-21. Subsequently, since that excise policy could not materialize another excise policy to suit the liquor lobby

was formulated and notified wherein the present applicant received cash amount of Rs. 2 crores at his official residence through Sarvesh Mishra, who was staying with him in his official residence.

69. As far as recovery of the trail of money is concerned, the allegations are to be proved, not at the stage of grant of bail but only when the trial will begin and the testimonies of the witnesses who have made statements regarding payment of money and mode thereof will become clear. In the present case, as per the statement of the approver, the money was paid in the year 2021 and 2022, whereas the statement was recorded and disclosure regarding the same was made in the year 2023, and the reasons for non-disclosure of the same earlier has been given by the approver. There are allegations that the money paid in cash was used for funding the party election in Goa, and therefore, the source of money having been disclosed and there being specific allegations alongwith time and place of such payment, as to how the money was spent can be disclosed during the trial. The Courts seldom expect in this digital era that the kickbacks or the cash paid as bribe will be accepted by online transactions for the Courts to take note of.

70. **The present case is not the first case wherein the statement of the approver has been recorded, nor the last. The law regarding recording statements of the approver was not enacted in the recent past and thus, has a long history of judicial precedents demonstrating that this law has been used since its**

enactment and has not been enacted only in the recent past to falsely implicate the accused.

71. This Court has to read and apply the law as it stands at the appropriate stage of a case or trial within the parameters of judicial precedents. The judicial precedents cannot be changed in case of a public or a private person. The law regarding statement of the approver, its evidentiary value and the appropriate stage at which it can be admitted or disregarded is not the stage of bail as per judicial precedents.

72. In view of the aforesaid discussion, no ground for grant of bail is made out, at this stage.

73. However, the Hon'ble Apex Court has already held in ***Manish Sisodia v. CBI*** *2023 SCC OnLine SC 1393* while rejecting bail application of a co-accused that the trial may conclude expeditiously once it commences. The accused in this case is entitled to a fair trial, a fundamental principle of justice that must be upheld. In light of this, this Court directs the learned Trial Court to expedite the trial in the present case. It is imperative that the legal process moves swiftly and efficiently to ensure that the accused's rights are protected, and justice is served without undue delay, subject to the condition that neither the counsel for accused(s) nor the prosecution will seek unnecessary adjournments.

74. It is, however, clarified that the observations made hereinabove *qua* the present case are solely for the purpose of deciding the instant application, and the same shall not be construed as opinion of this Court on the merits of the case, which will be adjudicated upon

during the course of trial.

75. Accordingly, the present bail application stands disposed of.

76. A copy of this order be given *dasti* to the learned counsel for the accused as the accused is in judicial custody.

77. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

FEBRUARY 7, 2024/ns