**(2023) 10 SC CK 0051**

**Supreme Court Of India**

**Case No:** Criminal Appeal No. 3352 Of 2023

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| Manish Sisodia | APPELLANT |
| Vs | |
| Central Bureau Of Investigation | RESPONDENT |

**Date of Decision:** Oct. 30, 2023

**Acts Referred:**

- Constitution Of India, 1950 - Article 20, 21, 74(2), 163(3)
- Prevention of Corruption Act, 1988 - Section 7, 7(a), 7(b), 7A, 8, 12
- Indian Penal Code, 1860 - Section 107, 108, 120, 120B, 201, 420
- Prevention of Money Laundering Act, 2002 - Section 2(1)(s), 2(u), 3, 4, 19, 45, 50, 50(2), 50(3), 70
- Code of Criminal Procedure, 1973 - Section 161, 164, 306, 436A, 439, 482

**Hon'ble Judges:** Sanjiv Khanna, J; S.V.N. Bhatti, J

**Bench:** Division Bench

**Advocate:** Dr. Abhishek Manu Singhvi, Vivek Jain, Mohd. Irshad, Rajat Jain, Amit Bhandari, Karan Sharma, Suchitra Kumbhat, Abhinav Jain, Honey Kumbhat, Rishikesh Kumar, Mohit Siwach, Rishabh Sharma, Siddhanth Sahay, S.V. Raju, Zoheb Hussain, Arkaj Kumar, Sairica Raju, Digvijay DA,, Sweksha, Annam Venkatesh, Ankit Bhatia, Vivek Gurnani, Vinayak Sharma, Manisha Dubey, Kshitiz Agarwal, Mukesh Kumar Maroria, Gaurav Sankar, Satyarth Singh, Suryaprakash V Raju, Digvijay Dam, Zoheb Hussain, Annam Venkatesh, Sweksha, Arvind Kumar Sharma

**Final Decision:** Disposed Of

**Judgement**

Sanjiv Khanna, J

1. Leave granted.

2. Rule of law means that laws apply equally to all citizens and institutions, including the State. Rule of law requires an equal right to access to justice for the marginalised. The rule also mandates objective and fair treatment to all. Thirdly, rule of law is a check on arbitrary use of powers. It secures legitimate exercise of power

for public good.

3. This is precisely the reason why we had heard arguments at some length in these two appeals filed by the appellant – Manish Sisodia, former Deputy Chief Minister of Delhi, who seeks bail in the prosecutions arising from RC No. 0032022A00553, dated 17.08.2022, registered by the Central Bureau of Investigation [For short, "CBI".], at CBI, ACB, New Delhi, under the Prevention of Corruption Act, 1988 [For short, "PoC Act"] and the Indian Penal Code, 1860 [For short, "IPC"]; and Enforcement Case Information Report [For short, "ECIR"] No. HIU-II/14/2022, dated 22.08.2022, filed by the Directorate of Enforcement [For short, "DoE"], under the Prevention of Money Laundering Act, 2002 [For short, "PML Act"].

4. CBI has filed two chargesheets, dated 24.11.2022 and 25.04.2023, wherein the appellant – Manish Sisodia is named and is facing trial for the offences under Sections 7, 7A, 8 and 12 of the PoC Act and Sections 120B, 201 and 420 of the IPC. DoE has filed a criminal complaint dated 04.05.2023 against the appellant – Manish Sisodia for the offences under Sections 3 and 4 of the PML Act.

5. A number of legal issues and questions were raised, and do arise, for consideration, but we would refrain from delving into them in depth and detail. However, there is a bounded discussion in the subsequent portion of the judgment only for deciding the present appeals and the question as to whether the appellant – Manish Sisodia is entitled to bail. Nevertheless, for the purpose of record, we will delineate some of them:

(a) What is the scope and ambit of the constitutional protection under Articles 74 and 163 of the Constitution of India on the decisions taken by the Council of Ministers?

(b) Whether on interpretation of Section 3 of the PML Act, 'the act/process of generation' or 'the attempt to generate the proceeds of crime' falls within the ambit of the expressions 'assist', 'acquisition', 'possession' or 'use' under Section 3 of the PML Act? If the answer is in affirmative, what are the legal consequences as per the Constitution of India, under the Code of Criminal Procedure, 1973 [For short, "The Code"], the IPC, and the General Clauses Act, 1897?

(c) Whether a person can be prosecuted under the PML Act only when there is material to show that he has indulged or assisted in any activity/process of money laundering, albeit an activity/process different and separate from the scheduled offence?

(d) Whether an accused, who allegedly has committed the scheduled offence, can be prosecuted under the PML Act, when the alleged prime accused and the beneficiary of the proceeds of crime, a juristic person, is not arrayed as an accused in the criminal complaint filed by the DoE?

(e) Whether Sections 45 and 50 of the PML Act should be read down in view of the constitutional scheme and mandate of Article 20 of the Constitution of India?

6. On behalf of the appellant – Manish Sisodia, the following submissions have been made:

• The appellant – Manish Sisodia has been in custody from 26.02.2023 in RC No. 0032022A00553 and from 09.03.2023 in the ECIR No. HIU-II/14/2022.

• CBI had submitted charge-sheet on 25.04.2023 and the DoE had filed the criminal complaint on 04.05.2023 against the appellant

– Manish Sisodia.

• There are 294 witnesses and about 31,000 pages of documents in the charge-sheet filed by the CBI. There are 162 witnesses and 25,000 pages of documents in the prosecution complaints filed by the DoE.

• Arguments on charge have not commenced, and the trial will take years.

• The new excise policy was validly adopted after due deliberation by the Council of Ministers/Cabinet in larger and greater public interest:

o Under the old excise policy there was an incentive to cheat because of the very nature of liquor - fast selling and highly taxed. As per the Ravi Dhawan Committee [For short, "R.D. Committee"] Report dated 13.10.2020, the profit margins could be up to 65-70%, as the manufacturers were able to acquire retail licenses through proxy ownership.

o As a check, wholesale licenses were not to be issued to a manufacturer or retail licence holder, directly or to sister concerns or related entities.

o 272 wards in 68 Assembly Constituencies were divided into 30 zones. Each zone was to have 9-10 wards with a maximum of 27 retail vends which were to be allotted on the basis of auction. Each zone operator was to operate two mandatory vends in each ward. The remaining vends were freehold vends to be operated anywhere within that zone.

o Auction, with a reserve price equal to the existing license fee plus sum of potential revenue, estimated VAT and 10% additional fee for increase on year to year ensured maximization of revenue.

o The licence fee payable by the wholesaler was raised from Rs.5,00,000/- (rupees five lakhs only) under the old policy to Rs.5,00,00,000/- (rupees five crores only), which is an increase of approximately 10,000%.

o The wholesalers were entitled to a standard distribution fee at the rate of 12% of the landed price. The landed price or the ex-distillery price was the lowest price as declared by the manufacturer in any market in India.

o The standard distribution fee at the rate of 12%, though higher than the fee under the old policy, was necessary to cover the higher level of investment required, setting up of quality checking system, etc. The fee of 12% had also subsumed several other charges payable under the old policy.

• The new policy was drafted in a transparent manner after deliberation at different levels by Secretaries/Officers of the Excise, Planning, Finance and Law departments. The revenue generation was projected at 12%.

• Comments from general public were invited. Around 14,671 e-mails were received. The comments were considered. As per the prosecution, 6 e-mails were planted/prompted. This assertion to establish a criminal offence relying on 0.04% e-mails is assumptive and overweening.

• The policy was sent to the Lieutenant Governor [For short, "LG"] of the National Capital Territory [For short, "NCT"]] of Delhi for comments and recommendation. The LG gave his recommendation on some aspects. The Cabinet had considered and accepted the recommendations.

• The new excise policy report prepared by the GoM was accepted by the Excise Department and the Cabinet of the NCT of Delhi. It was uploaded on the website on 05.07.2021. It was implemented only on 17.11.2021.

• Proceeds of crime is the core ingredient for the offence of money laundering, which expression is required to be construed strictly, as held in Vijay Madanlal Choudhary and Others v. Union of India and Others (2022) SCC Online 929. The offence under the PML Act has nothing to do with the criminal activity, subject matter of the scheduled offence. PML Act penalises indulging in activity/process relating to the proceeds of the crime, derived or obtained as a result of that crime.

• Allegation regarding kickback of Rs.100,00,00,000 (rupees one hundred crore only), and a portion of it being used for funding the Aam Aadmi Party [For short, "AAP"], for its election campaign in Goa, is a concocted story unsupported by any legal and admissible evidence and material. The money trial is unproven and false.

• Co-accused Rajesh Joshi and Gautam Malhotra have been granted bail for the offence under the PML Act on the ground that there was no documentary evidence to show that proceeds of crime were used for the election purposes.

• To establish the money trail and payment of bribe/kickback of Rs.100,00,00,000 (rupees one hundred crore only), the DoE has relied upon the statements made by co-accused or approvers. These statements are hearsay and do not in any manner implicate or connect the appellant – Manish Sisodia with the transfer and use of the proceeds of the crime.

• The statements of co-accused or other witnesses relied upon by the DoE were extracted and forced by a threat of arrest, as in the case of Magunta Sreenivasulu

Reddy, Butchi Babu and Manoj Rai. Some of the co-accused like Arun Pillai and Sameer Mahendru have retracted from their statements.

• Raghav Magunta, son of a Member of Parliament of the ruling party in Andhra Pradesh, was forced to make the statement dated 27.07.2023, which is contrary to his earlier statement dated 16.09.2022.

• Statements obtained from Dinesh Arora, an approver, is weak evidence and in this regard, reliance is placed upon Ravinder Singh v. State of Haryana (1975) 3 SCC 742.

• Statement of Dinesh Arora dated 12.07.2023 is contrary to his earlier statement made on 09.04.2023.

• Allegations regarding the appellant – Manish Sisodia's involvement in the grant of licence to Indo Spirit is make belief and a false assertion. Statements obtained from the officers of the Excise Department under Section 164 of the Code, namely, Suman, Sachin Solanki and Arava Gopi Krishna do not implicate the appellant – Manish Sisodia.

• The appellant – Manish Sisodia, in his statement dated 14.03.2023, has stated that he had not instructed the Excise Commissioner to expedite the clearance of Indo Spirit's license.

• Interaction and communications between the private parties viz. business of Indo Spirit was independent, and without any interference, knowledge and participation of the appellant – Manish Sisodia.

• Vijay Nair was not associated with the appellant – Manish Sisodia. There are also contradictions in the statements made by C. Arvind, under Section 50 of the PMLA, dated 07.12.2022, and the one under Section 164 of Cr.P.C., dated 16.02.2023.

• Allegation regarding destruction of the cabinet file is nothing but making a mountain out of a molehill. The three legal opinions, two by former Chief Justices of India and one by a Law Officer, on merits or demerits of the old policy, were benign, and of no consequence and relevance. The allegation is also contrary to the contemporaneous records maintained by DoE.

7. The CBI and DoE have submitted as under:

• Under the old excise policy:

o There was no concept of private wholesaler and no concept of zones. [As per the appellant – Manish Sisodia, under the old liquor policy there were private whole-sellers, which assertion prima-facie appears to be correct.]

o The distributor/wholesaler was entitled to 5% profit margin.

o The retail trade was primarily undertaken by four corporations of the Government of NCT of Delhi.

• R.D. Committee Report dated 13.10.2020 [The Expert Committee headed by Ravi Dhawan was constituted on 04.09.2020] recommended: o Gradual withdrawal of government presence.

o Wholesale operation under one government entity.

o Three models were examined: (i) existing model, (ii) licenses vide lottery system, and (iii) licenses to limited entities.

o Licenses vide lottery system was recommended since auctioning licenses to limited entities could lead to cartelisation.

• The R.D. Committee Report dated 13.10.2020 was not preferred by the appellant – Manish Sisodia. Reliance is placed upon the statement of C. Arvind [Posted as Secretary to appellant – Manish Sisodia between July, 2019 to June, 2022] dated 16.02.2023 under Section 164 of the Code, and Rahul Singh [Erstwhile Excise Commissioner of NCT of Delhi] dated 03.03.2023 under Section 161 of the Code. The appellant – Manish Sisodia had not accepted the report because of ulterior reasons.

• A conspiracy was entered viz. the new excise policy to enable supersize profits for wholesale distributors in return for kickbacks and bribes. To start with:

o Public comments were invited to the R.D. Committee Report dated 13.10.2020. Some public comments vide emails were prompted by the appellant – Manish Sisodia to influence the decision making process. The emails [Emails shared by interns of the Delhi Minorities Commission as public comments to the R.D. Committee Report.], statement of Zakir Khan [Chairperson of the Delhi Minorities Commission] dated 29.03.2023 recorded under Section 161 of the Code, and screenshots of WhatsApp chats of Kartikey Azad and Zakir Khan establish the motive. Thus, a facade of transparency and openness in policy making was created.

o Rahul Singh [Erstwhile Excise Commissioner of NCT of Delhi] supports the charge. He was asked to prepare a cabinet note in a particular manner with comments and suggestions of the stakeholders and public. The appellant – Manish Sisodia reprimanded Rahul Singh for annexing the opinion of legal experts in the cabinet note. [Statement of Rahul Singh21 dated 03.03.2023, under Section 161 of the Code] C. Arvind's statement dated 16.02.2023 under Section 164 of the Code is similar.

o The appellant – Manish Sisodia, had issued directions to Sanjay Goel [Excise Commissioner of NCT of Delhi, who had replaced Rahul Singh], to prepare a note without the opinion of legal experts. Reliance is placed on the statement of Sanjay Goel dated 17.01.2023 under Section 161 of the Code, and the letter dated 02.02.2023 by the appellant – Manish Sisodia to the Excise Commissioner.

• The draft GoM Report on new excise policy, as retrieved from the computer under the control of the appellant – Manish Sisodia was typed/uploaded on 15.03.2021 and

was last modified at 11.27 a.m. The wholesalers were entitled to a minimum 5% commission on the landed price. As no upper limit was prescribed, the manufacturers and wholesale distributors could negotiate and settle for a higher commission.

• Big manufacturers with high market share and turnover, would not have agreed to a commission higher than 5%, or commission at the @ 12% of the landed cost.

• A liquor group from Hyderabad stayed in Delhi from 16.03.2021 to 18.03.2021. Arun Pillai, Abhishek Boinpally, and Sarath Reddy from the liquor group had several meetings with Vijay Nair, who was the middleman, a member of the AAP, and a close confidant of the appellant – Manish Sisodia. He was residing in a government bungalow allotted to a Cabinet Minister, who was a part of GOM. [Reliance is placed upon statements made by Arun Pillai, Butchi Babu and Dinesh Arora. Reliance is also placed on screenshots found in the phone of Manoj Rai, an employee of Pernod Ricard.] The agenda of the meetings were to decide changes in the excise policy, to enable them to earn super-profits in return for kickbacks.

o On the evening of 16.03.2021, Abhishek Boinpally and Butchi Babu, who were staying at Hotel Oberoi, travelled to another Oberoi hotel in Civil Lines, where they met Vijay Nair, who was staying in a close proximity. The travel to the Oberoi Hotel in Civil Lines is established by an invoice [On 16.03.2021, Rs. 3,000/- had been billed under the description, "Logistic Charges"], call record details and statement of an employee of the Oberoi. [Statement of Ibrahim Magdum dated 03.02.2023, under Section 161 of the Code]

o A print/photocopy of a 36 page document was made on 16.03.2021 at Hotel Oberoi, Civil Lines, Delhi. [On 16.03.2021, Rs. 360/- had been billed under the description, "Print/Photocopy"]

o The document/print was taken by Vijay Nair, and handed over to the appellant – Manish Sisodia. The appellant – Manish Sisodia gave 'the print' to his secretary C. Arvind.

o The altered GoM report dated 18.03.2023 consists of 36 pages, if one excludes the index and the title page. Reference is made to the statement of C. Arvind dated 16.02.2023, under Section 164 of the Code.

o Screenshots of WhatsApp chats of Butchi Babu dated 20.03.2021, which is prior to submission of the GoM report to the Cabinet on 22.3.2022, refers to the creation of the new post of the Director, Wholesale Operation. Based on the print/document prepared by the liquor group, the GoM report to the Cabinet was modified to create this post.

o Further, the minimum wholesaler fee of 5% under the draft dated 15.03.2021, was modified to mandatory and fixed fee of 12% in the altered GoM report submitted to the Cabinet.

• The GoM did not meet between 15.03.2021 and 19.03.2021. There are neither any deliberations/discussions nor any noting/ calculations by the GoM for increasing the wholesale commission/ fee from 5% to 12%. Reliance is placed on the statement of Arava Gopi Krishna under Section 164 of the Code. Reliance is also placed on the statement of Sanjay Goel, dated 11.04.2023, under Sections 50(2) and 50(3) of the PML Act.

• The appellant – Manish Sisodia was unable to provide any rational explanation for increasing the commission from 5% to 12%. [Statement of Manish Sisodia dated 07.03.2023, under Section 50(2) and 50(3) of the PML Act] He had stated that even under the old regime there was no calculation for the 5% margin.

• The appellant – Manish Sisodia had used his influence for grant of wholesale licence to Indo Spirit, a firm in which the liquor group had substantial interest. Reliance is placed on the statements made under Section 164 of the Code by Arava Gopi Krishna, and C. Arvind, dated 16.02.2023. Reliance is also placed on the statement of Dinesh Arora, dated 24.11.2022, recorded under Section 306 of the Code.

• License to Indo Spirit was granted in spite of existing complaints of cartelisation against the partners of Indo Spirit, namely, Sameer Mahendru and his wife. The complainant was asked to take back his complaint. [Statement of Jagbir Sidhu dated 19.09.2022, under Section 161 of the Code]

• The license fee payable by the wholesale distributor was fixed at Rs.5,00,00,000/- (rupees five crores only). The license fee was deliberately not fixed on the turnover, to facilitate and at the behest of the liquor group.

• Three big manufacturers held 85% market share. The entire scheme was a pretence to recoup and get bribe and kickback from the big wholesale distributors, who acted as the middlemen and were entitled to fixed commission @ 12% of the landed price on the turnover, but were required to pay a fixed license fee of Rs.5,00,00,000/- (rupees five crores only) to the government.

• The manufacturers could appoint and enter into a distributorship agreement with only one wholesale distributor. They were not entitled to appoint multiple wholesale distributors. However, the wholesaler could enter into a contract with more than one manufacturer. New excise policy was clearly lopsided and favoured the big wholesale distributors.

• Mahadev Liquor, a contender and wholesale distributor of 14 small manufacturers having about 20% market share, was forced to surrender their licence since they were not ready to pay kickbacks. Mahadev Liquor had business in Punjab and the state machinery of Punjab Excise Department was used to arm-twist them. [Statement of Jasdeep Kaur Chadha dated 23.08.2022 under Section 50(2) and 50(3) of the PML Act]

• Pernod Ricard, the largest manufacturer, was directed to do business through Indo Spirit. Reliance is placed upon evidence collected from the mobile chats, including screenshots, as well as statements of an employee [Statement of Manoj Rai dated 31.12.2022, under Sections 50(2) and 50(3) of the PML Act].

• The plea that the appellant – Manish Sisodia was not in possession of the proceeds of the crime, should not be accepted as the expression 'possession' includes constructive possession. A person need not be in actual possession. When a person exercises dominion or control over a thing, directly or indirectly, through another person, he is in 'possession' over the said thing. The appellant – Manish Sisodia was a key to the processes and activities dealing with the proceeds of the crime and in using proceeds of the crime. He had created an eco-system for generating, concealing and projecting the tainted money, used subsequently by AAP.

• The kickback or the proceeds of the crime of Rs.100,00,00,000 (rupees one hundred crore only) were received from the liquor group, and used by the associates of the appellant – Manish Sisodia and other leaders of AAP.

o Portions of these proceeds of crime were used in the Goa election campaign through multiple persons and entities. The attempt was to conceal the true nature of the proceeds of the crime and to project them as untainted money.

o Part of the proceeds of crime of Rs.100,00,00,000 (rupees one hundred crore only) were transferred through a complex web of transactions through hawala route, which have been traced in spite of erasure of digital and documentary evidence.

• The appellant – Manish Sisodia was unable to produce his two mobile phones out of three mobile phones used between the period 01.01.2021 to 19.08.2022. Only one phone was seized by the CBI on 19.08.2022, which was being used only since 22.07.2022. He has deliberately destroyed the evidence.

• The appellant – Manish Sisodia, given his power and political clout, and being the main accused in the conspiracy, may have the evidence destroyed, and the witnesses and documents may be exposed.

• Dinesh Arora's statement to the DoE dated 14.08.2023, under Sections 50(2) and 50(3) of the PML Act, had revealed that he had taken Rs. 2,20,00,000 (rupees two crore twenty lakhs only) from Amit Arora, for the appellant – Manish Sisodia. This was on account of favourable change and tweak in the new excise policy.

**Analysis**

8. Referring to Section 45 of the PML Act, in Vijay Madanlal Choudhary (supra), the three Judges' Bench has opined that the provision does not require that to grant bail, the court must arrive at a positive finding that the applicant has not committed an offence under the PML Act. Section 45 must be construed reasonably as the

intent of the legislature cannot be read as requiring the court to examine the issue threadbare and in detail to pronounce whether an accused is guilty or is entitled to acquittal. Further, an order on an application for bail is passed much before the end of trial and sometimes even before commencement of trial. Lastly, it is trite, that for the purpose of considering an application for bail, although detailed reasons are not necessary to be assigned, and, therefore, the evidence need not be weighed meticulously, a tentative finding should be recorded on the basis of broad probabilities. The order granting bail must demonstrate application of mind at least in serious cases where the applicant has been granted or denied bail. The findings recorded by the Court for grant or refusing bail being tentative, will not have any bearing on the merits of the case, and the trial court would proceed and decide the case on the basis of evidence produced during trial without in any manner being prejudiced thereby.

Section 45 reads:

**"45. Offences to be cognizable 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 an 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.

(1-A) 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 fulfilment of conditions under section 19 and subject to the conditions enshrined under this section.

9. We have copiously referred to the assertions, arguments and contentions of both sides, and in terms of the mandate in Vijay Madanlal Choudhary (supra), we will be examining the allegations and the legal position to form our tentative opinion. However, we must notice and take on record at some aspects upfront.

10. First, the assertion that Rs. 2,20,00,000 (rupees two crores twenty lakhs only) was paid as bribe to the appellant – Manish Sisodia by Amit Arora, through middleman Dinesh Arora, is not a charge or an allegation made in the chargesheet filed by the CBI. It may be difficult to regard the alleged payment as a 'proceed of crime' under the PML Act.

11. Secondly, it has been submitted by the DoE that AAP is a trust and is a "person" under Section 2(1)(s) of the PML Act. Being a juristic person, it acts through natural persons. The assertion made is that a portion of the proceeds of crime were used for the purpose of the artificial judicial person to fund the election in Goa. The DoE has stated at the Bar, and in the written submissions, that once the quantum of amount used in the election in Goa is ascertained, a decision to consider AAP as an accused under Section 3 will be taken. It is stated by the DoE that the matter in this regard is being processed. In the written submissions, the DoE states:

"…some of the PoC (Proceeds of Crime) has been used for the purpose of artificial juridical person through its office bearers in the election funding of the AAP in Goa as well for the benefit of office bearers as indicated above. Once the quantum of amount used for election in Goa is ascertained a decision to consider AAP as accused under Section 3 read with Section 70 of the PMLA (PML Act) shall be taken at that point of time."

12. Thirdly, the assertion in the complaint filed with the DoE that kickback of Rs.100,00,00,000 (rupees one hundred crore only) was actually paid by the liquor group is somewhat a matter of debate. However, there is an assertion, and the DoE has relied on evidence and material, that a portion thereof, that is, Rs. 45,00,00,000 (rupees forty five crores only) was transferred through Hawala for the Goa election and used by AAP, a political party, which is a juristic person. [We are not commenting on the material and evidence relied by the DoE or CBI] AAP is not being prosecuted. The charge that the appellant – Manish Sisodia is vicariously liable in terms of Section 70 of the PML Act cannot be alleged and has not been argued. [See

– Aneeta Hada v. Godfather Travels and Tours Private Limited, (2012) 5 SCC 661, and Sharad Kumar Sanghi v. Sangita Rane, (2015) 12 SCC 781]

13. Fourthly, the contention of the DoE that generation of proceeds of crime is itself 'possession' or 'use' of the 'proceeds of crime', prima facie, appears to be unclear and not free from doubt in view of the ratio in Vijay Madanlal Choudhary (supra). Further, the DoE's contention that 'generation' amounts to possession and the expression 'possession' includes constructive possession, for which reliance is placed upon Mohan Lal v. State of Rajasthan (2015) 6 SCC 222, is not assured.

14. On the other hand, the appellant – Manish Sisodia relies on paragraphs 251, 269 and 270 of Vijay Madanlal Choudhay (supra), to contend that money laundering is an independent offence regarding the process or activity connected with the proceeds of crime derived as a result of criminal activity relating to or in relation to a scheduled offence. It is submitted that Vijay Madanlal Choudhry (supra) has held that PML Act is an independent and distinct Act which deals with offences relating to only proceeds of crime, and not with the crime itself which generates the proceeds of the crime. In particular, paragraph 406 in Vijay Madanlal Choudhary (supra) states:

"406…The fact that the proceeds of crime have been generated as a result of criminal activity relating to a scheduled offence, which incidentally happens to be a non-cognisable offence, would make no difference. The person is not prosecuted for the scheduled offence by invoking provisions of the 2002 Act, but only when he has derived or obtained property as a result of criminal activity relating to or in relation to a scheduled offence and the indulges in process or activity connected with such proceeds of crime…"

Paragraph 407 similarly states:

"407…the offence under this Act in terms of Section 3 is specific to involvement in any process or activity connected with the proceeds of crime which is generated as a result of criminal activity related to the scheduled offence…"

15. In Mohan Lal (supra), the expression 'possession', it is held, consists of two elements. First, it refers to corpus of physical control and second it refers to the animus or intent which has reference to exercise of self-control. In the context of narcotics laws, a person is said to possess control over the substance when he knows the substance is immediately accessible and exercises dominion or control over the substance. The power and dominion over the substance is, therefore, fundamental. The stand of the DoE as to the constructive possession, will be satisfied only if the dominion and control criteria is satisfied. If the proceeds of crime are in dominion and control of a third person, and not in the dominion and control of the person charged under Section 3, the accused is not in possession of the proceeds of the crime. It would be a different matter, when an accused, though not in possession, is charged for use, concealment or acquisition of the proceeds of

the crime, or projects or claims the proceeds of crime as untainted property. The involvement of an accused may be direct or indirect. Prima facie, there is lack of clarity, as specific allegation on the involvement of the appellant – Manish Sisodia, direct or indirect, in the transfer of Rs. 45,00,00,000 (rupees forty five crores only) to AAP for the Goa elections is missing.

16. This Court in Y. Balaji v. Karthik Desari and Another (2023) SCC Online SC 645, while examining contours of Section 3 of the PML Act, referred to the drafting note on self-laundering contained in the U.N. Model Law 2009, which states that the third party would be liable for money laundering even where the fundamental principles of domestic law require that it will not apply to persons who commit the predicate offence. In some countries, constitutional principles prohibit prosecuting a person both for money laundering and a predicate offence. However, in most common law countries, the fundamental principles do not prohibit application of money laundering offence to self-launderers. On dissection of the main part of Section 3, it is held that it postulates three 'p's, namely, the person, the process or activity, and the product. The process or activity consists of six parts – concealment, possession, acquisition, use, projecting or claiming the proceeds of crime as untainted property. The product, that is, the proceeds of the crime, has been defined in Section 2(u) of the PML Act, as a property derived or obtained directly or indirectly by a person as a result of criminal activity relating to a scheduled offence or the value of such property. As far as 'person' is concerned, it means those who directly or indirectly attempt to indulge; those who knowingly assist, or those who are knowingly a party, or those who are actually involved. On the above interpretation, this court held that the offence under Section 3 of the PML Act includes both the persons who commit the predicate or schedule offence and third party launderers. [For the purpose of the present decision, we need not examine whether there is a conflict in the ratio in Y. Balaji (supra) and the ratio in Vijay Madanlal Choudhary (supra)]
Section 3 of the PML Act reads: Section 3 of the PML Act reads:

**"3. Offence of money-laundering**.—Whosoever directly or indirectly attempts to indulge or knowingly assists or knowingly is a party or is actually involved in any process or activity connected with the proceeds of crime including its concealment, possession, acquisition or use and projecting or claiming it as untainted property shall be guilty of offence of money-laundering.

Explanation.—For the removal of doubts, it is hereby clarified that,—

(i) a person shall be guilty of offence of money-laundering if such person is found to have directly or indirectly attempted to indulge or knowingly assisted or knowingly is a party or is actually involved in one or more of the following processes or activities connected with proceeds of crime, namely—

(a) concealment; or

(b) possession; or (c) acquisition; or (d) use; or

(e) projecting as untainted property; or (f) claiming as untainted property,

in any manner whatsoever;

(ii) the process or activity connected with proceeds of crime is a continuing activity and continues till such time a person is directly or indirectly enjoying the proceeds of crime by its concealment or possession or acquisition or use or projecting it as untainted property or claiming it as untainted property in any manner whatsoever.

Section 2(u) of the PML Act reads:

"'proceeds of crime' means any property derived or obtained, directly or indirectly, by any person as a result of criminal activity relating to a scheduled offence or the value of any such property or where such property is taken or held outside the country, then the property equivalent in value held within the country or abroad;"

17. The judgment in Y. Balaji (supra), it is submitted by the appellant – Manish Sisodia, does not specifically examine whether 'generation' will be included in the six activities covered under the head 'process or activity'. The second 'p' must relate to the activity or process with the third 'p', that is, the product, which is the proceeds of crime. However, we need not, in the present case, definitively pronounce on the said aspects as these issues and contentions will have to be examined threadbare by the trial court, or in an appropriate case by this Court.

18. The offence of conspiracy and abetment, in terms of Sections 120/ 120B and Sections 107/108 of the IPC, are not applicable to offences under the PML Act. At the same time, Section 3 of the PML Act is wide and encompassing as it uses the words, "directly or indirectly", with reference to the person involved, and knowingly assists, or knowingly is a party in an offence in relation to the concealment, possession, acquisition, use, projecting or claiming the proceeds of crime as untainted property. [Scope and ambit of these words/expressions has not been examined by us.]

19. We must also record that the DoE has not urged and argued before us the contention that the new liquor policy is vitiated on the ground that retail vends had to be and were auctioned, though the R.D. Committee's Report dated 13.10.2020 has suggested retail vends should be allotted by lottery. [Relevant portion of the R.D. Committee Report dated 13.10.2020 reads: "1.3.4.... The lottery applications will be against the pool of all 846 vends and will be randomly allotted in wards, NDMC area and airports..." In the written submissions filed by the prosecution several assertions have been made.] Normally, auction and allotment to the highest bidder would be fair and beneficial for revenue generation, though in certain circumstances allotment by other modes may be more fair and better. [In Indian Medicines Pharmaceuticals Corporation Ltd. v. Kerala Ayurvedic Cooperative Society Ltd. And Ors., 2023 SCC OnLine SC 5, this Court held that:

"17. This Court has consistently held that government contracts must be awarded by a transparent process. The process of inviting tenders ensures a level playing field for competing entities. While there may be situations which warrant a departure from the percept of inviting tenders or conducting public auctions, the departure must not be unreasonable or discriminatory. In Centre for Public Interest Litigation v. Union of India, the 'first-cum- serve' policy was held to be arbitrary while alienating natural resources. However, the Court observed that though auction is 'preferred' method of allocation, it cannot be construed to be a constitutional requirement."] We will not go into the said aspect. Neither are we examining whether this plea can be taken by the DoE, in view of Articles 74(2)42 and 163(3)43 of the Constitution of India, as this relates to the wisdom or merits of the choice that every elected government has while formulating a policy. [See In Yashwant Sinha and Ors. v. Central Bureau of Investigation, (2019) 6 SCC 1, State of Uttar Pradesh v. Raj Narain, (1975) 4 SCC 428, Doypack Systems (P) Ltd. v. Union of India, (1988) 2 SCC 299 and other cases.] However, we should not be understood to mean that no policy decision would fall foul as to be covered as an offence under Section 7 of the PoC Act. We shall subsequently examine Section 7 of the PoC Act viz. the facts alleged. We need not go into the questions in detail as the argument with reference to Article 163(3) has not been specifically raised on behalf of the appellant – Manish Sisodia, though the plea that the CBI, the DoE and the Court should not examine merits and wisdom behind the choice of policy decision have been raised.
Article 74(2) of the Constitution of India reads: "...(2) The question whether any, and if so what, advice was tendered by Ministers to the President shall not be inquired into in any court."

Article 163(3) of the Constitution of India reads: "...(3) The question whether any, and if so what, advice was tendered by Ministers to the Governor shall not be inquired into in any court."

20. The appellant – Manish Sisodia, it is claimed, had deliberately destroyed the two mobile phones so as to prevent any investigation. Further, he had changed his mobile phone on 22.07.2022, the date on which the media had covered the news of the complaint sent by the LG of NCT of Delhi to the CBI for investigation. The appellant – Manish Sisodia states that people do change mobile phones frequently, and old phones need not be retained. Whether or not the allegation as to deliberate destruction of mobile phones is correct would be decided post recording of evidence, but this would not be a weighty factor for deciding the question of bail, given the period of detention undergone by the appellant – Manish Sisodia.

See Section 201 of the IPC, which reads:

**"201. Causing disappearance of evidence of offence, or giving false information to screen offender**.— Whoever, knowing or having reason to believe that an offence has been committed, causes any evidence of the commission of that offence

to disappear, with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false,

if a capital offence.—shall, if the offence which he knows or believes to have been committed is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

if punishable with imprisonment for life.—and if the offence is punishable with imprisonment for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

if punishable with less than ten years' imprisonment.—and if the offence is punishable with imprisonment for any term not extending to ten years, shall be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth part of the longest term of the imprisonment provided for the offence, or with fine, or with both.

21. However, there is one clear ground or charge in the complaint filed under the PML Act, which is free from perceptible legal challenge and the facts as alleged are tentatively supported by material and evidence. This discussion is equally relevant for the charge-sheet filed by the CBI under the PoC Act and IPC. We would like to recapitulate the facts as alleged, which it is stated establish an offence under Section 3 of the PML Act and the PoC Act. These are:

• In a period of about ten months, during which the new excise policy was in operation, the wholesale distributors had earned Rs. 581,00,00,000 (rupees five hundred eighty one crores only) as the fixed fee.

• The one time licence fee collected from 14 wholesale distributors was about Rs.70,00,00,000 (rupees seventy crores only).

• Under the old policy 5% commission was payable to the wholesale distributors/licensees.

• The difference between the 12%; minus 5% of the wholesale profit margin plus Rs.70,00,00,000/-; it is submitted, would constitute proceeds of crime, an offence punishable under the PML Act. The proceeds of crime were acquired, used and were in possession of the wholesale distributors who have unlawfully benefitted from illegal gain at the expense of the government exchequer and the consumers/buyers. [We wish to clarify that not all distributor licensees may be involved or have committed an offence under Section 3 of the PML Act. The figures quoted above relate to the 14 licensees, and have to be watered down/lowered to the sales made by the delinquent whole-sale distributor licensees who are being prosecuted.] Relevant portion of the criminal complaint filed by the DoE dated

04.05.2023, reads:

“One of the reasons given by Sh Manish Sisodia is to compensate the wholesaler for increased license fee from Rs 5 lacs to Rs. 5 Cr. During this policy period, 14 LI licences were given by Excise Department, by raising the license fee for LI to Rs. 5 Cr in the entire period of operation of the Delhi Excise Policy 2021- 22, the Govt. has earned Rs. 75.16 Cr from the license fee of LI (as per Excise department communication dated 11.04.2023) (RUD 34). On the other hand the excess profit earned by the wholesalers during this period is to the tune of Rs. 338 Cr. (7% additional profit earned due to increase from 5% to 12%, Rs. 581 Cr being the total profit of LI as informed by Excise department). Therefore there 1s no logical correlation between the license fee increase and the profit margin increase. Whereas this excess profit margin benefit could have been passed on to the consumers in form of lower MRP. Contrary to the claim that the policy was meant to benefit the public or the exchequer, it was rather a conspiracy to ensure massive illegal gains to a select few private players/individuals/entities.”

22. The charge-sheet under the PoC Act includes offences for unlawful gains to a private person at the expense of the public exchequer. Reference in this regard is made to the provisions of Sections 7, 7A, 8 and 12 of the PoC Act.

23. Clauses (a) and (b) to Section 7 of the PoC Act apply: (a) when a public servant obtains, accepts or intends to obtain from another person undue advantage with the intent to perform or fail to improperly or to forbear or cause forbearance to cause by himself or by another person; (b) obtains or accepts or attempts to obtain undue advantage from a person as a reward or dishonest performance of a public duty or forbearance to perform such duty, either by himself or by another public servant. Explanation (2) construes the words and expression, “obtains, accepts or attempts to obtain”, as to cover cases where a public servant obtains, accepts or intends to obtain any undue advantage by abusing his position as a public servant or by using his personal interest over another public servant by any other corrupt or illegal means. It is immaterial whether such person being a public servant accepts or attempts to obtain the undue advantage directly or through a third party.

Section 7 of PoC Act reads:

**“7. Offence relating to public servant being bribed**.—Any public servant who,—

(a) obtains or accepts or attempts to obtain from any person, an undue advantage, with the intention to perform or cause performance of public duty improperly or dishonestly or to forbear or cause forbearance to perform such duty either by himself or by another public servant; or

(b) obtains or accepts or attempts to obtain, an undue advantage from any person as a reward for the improper or dishonest performance of a public duty or for forbearing to perform such duty either by himself or another public servant; or

(c) performs or induces another public servant to perform improperly or dishonestly a public duty or to forbear performance of such duty in anticipation of or in consequence of accepting an undue advantage from any person,

shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to seven years and shall also be liable to fine.

Explanation 1.—For the purpose of this section, the obtaining, accepting, or the attempting to obtain an undue advantage shall itself constitute an offence even if the performance of a public duty by public servant, is not or has not been improper.

Illustration.—A public servant, 'S' asks a person, 'P' to give him an amount of five thousand rupees to process his routine ration card application on time. 'S' is guilty of an offence under this section. Explanation 2.—For the purpose of this section,—

(i) the expressions 'obtains' or 'accepts' or 'attempts to obtain' shall cover cases where a person being a public servant, obtains or 'accepts' or attempts to obtain, any undue advantage for himself or for another person, by abusing his position as a public servant or by using his personal influence over another public servant; or by any other corrupt or illegal means;

(ii) it shall be immaterial whether such person being a public servant obtains or accepts, or attempts to obtain the undue advantage directly or through a third party."

24. On this aspect of the offences under the PoC Act, the CBI has submitted that conspiracy and involvement of the appellant – Manish Sisodia is well established. For the sake of clarity, without making any additions, subtractions, or a detailed analysis, we would like to recapitulate what is stated in the chargesheet filed by the CBI against the appellant – Manish Sisodia:

• The existing excise policy was changed to facilitate and get kickbacks and bribes from the wholesale distributors by enhancing their commission/fee from 5% under the old policy to 12% under the new policy. Accordingly, a conspiracy was hatched to carefully draft the new policy, deviating from the expert opinion/views to create an eco-system to assure unjust enrichment of the wholesale distributors at the expense of government exchequer or the consumer. The illegal income (proceeds of crime, as per the DoE) would partly be recycled and returned in the form of bribes.

• Vijay Nair, who was the middleman, a go-between, a member of AAP, and a co-confident of the appellant – Manish Sisodia, had interacted with Butchi Babu, Arun Pillai, Abhishek Boinpally and Sarath Reddy, to frame the excise policy on conditions and terms put forth and to the satisfaction and desire of the liquor group.

• Vijay Nair and the members of the liquor group had meetings on different dates, including 16.03.2021, and had prepared the new excise policy, which was handed

over to Vijay Nair. Thereupon, the commission/fee, which was earlier fixed at minimum of 5%, was enhanced to fixed fee of 12% payable to wholesale distributor.

• The appellant – Manish Sisodia was aware that three liquor manufacturers have 85% share in the liquor market in Delhi. Out of them two manufacturers had 65% liquor share, while 14 small manufacturers had 20% market share. As per the term in the new excise policy - each manufacturer could appoint only one wholesale distributor, through whom alone the liquor would be sold. At the same time, the wholesale distributors could enter into distribution agreements with multiple manufacturers. This facilitated getting kickbacks or bribes from the wholesale distributors having substantial market share and turnover.

• The licence fee payable by the wholesale distributor was a fixed amount of Rs.5,00,00,000/- (rupees five crores only). It was not dependant on the turnover. The new policy facilitated big wholesale distributors, whose outpour towards the licence fee was fixed.

• The policy favoured and promoted cartelisation. Large wholesale distributors with high market share because of extraneous reasons and kickbacks, were ensured to earn exorbitant profits.

• Mahadev Liquor, who was a wholesale distributor for 14 small manufacturers, having 20% market share, was forced to surrender the wholesale distributorship licence.

• Indo Spirit, the firm in which the liquor group had interest, was granted whole distributor licence, in spite of complaints of cartelisation etc. which were overlooked. The complainant was forced to take back his complaint.

• The excess amount of 7% commission/fee earned by the wholesale distributors of Rs.338,00,00,000/- (rupees three hundred thirty eight crores only) constitute an offence as defined under Section 7 of the PoC Act, relating to a public servant being bribed. (As per the DoE, these are proceeds of crime). This amount was earned by the wholesale distributors in a span of ten months. This figure cannot be disputed or challenged. Thus, the new excise policy was meant to give windfall gains to select few wholesale distributors, who in turn had agreed to give kickbacks and bribes.

• No doubt, VAT and excise duty was payable separately. However, under the new policy the VAT was reduced to mere 1%.

• Vijay Nair had assured the liquor group that they would be made distributor of Pernod Ricard, one of the biggest players in the market. This did happen.

25. In view of the aforesaid discussion and for the reasons stated, we are not inclined to accept the prayer for grant of bail at this stage.

26. However, we are also concerned about the prolonged period of incarceration suffered by the appellant – Manish Sisodia. In P. Chidambaram v. Directorate of

Enforcement (2020) 13 SCC 791, the appellant therein was granted bail after being kept in custody for around 49 days [In P. Chidambaram v. Central Bureau of Investigation, (2020) 13 SCC 337, the appellant therein was granted bail after being kept in custody for around 62 days.], relying on the Constitution Bench in Shri Gurbaksh Singh Sibbia and Others v. State of Punjab (1980) 2 SCC 565, and Sanjay Chandra v. Central Bureau of Investigation (2012) 1 SCC 40, that even if the allegation is one of grave economic offence, it is not a rule that bail should be denied in every case. Ultimately, the consideration has to be made on a case to case basis, on the facts. The primary object is to secure the presence of the accused to stand trial. The argument that the appellant therein was a flight risk or that there was a possibility of tampering with the evidence or influencing the witnesses, was rejected by the Court. Again, in Satender Kumar Antil v. Central Bureau of Investigation and Another (2022) 10 SCC 51, this Court referred to Surinder Singh Alias Shingara Singh v. State of Punjab (2005) 7 SCC 387 and Kashmira Singh v. State of Punjab (1977) 4 SCC 291, to emphasise that the right to speedy trial is a fundamental right within the broad scope of Article 21 of the Constitution. In Vijay Madanlal Choudhary (supra), this Court while highlighting the evil of economic offences like money laundering, and its adverse impact on the society and citizens, observed that arrest infringes the fundamental right to life. This Court referred to Section 19 of the PML Act, for the in-built safeguards to be adhered to by the authorised officers to ensure fairness, objectivity and accountability. [See also Pankaj Bansal v. Union of India and Ors., 2023 SCC OnLine SC 1244] Vijay Madanlal Choudhary (supra), also held that Section 436A of the Code can apply to offences under the PML Act, as it effectuates the right to speedy trial, a facet of the right to life, except for a valid ground such as where the trial is delayed at the instance of the accused himself. In our opinion, Section 436A should not be construed as a mandate that an accused should not be granted bail under the PML Act till he has suffered incarceration for the specified period. This Court, in Arnab Manoranjan Goswami v. State of Maharashtra and Others (2021) 2 SCC 427, held that while ensuring proper enforcement of criminal law on one hand, the court must be conscious that liberty across human eras is as tenacious as tenacious can be.
436A of the Code reads:

“436-A. Maximum period for which an undertrial prisoner can be detained.—Where a person has, during the period of investigation, inquiry or trial under this Code of an offence under any law (not being an offence for which the punishment of death has been specified as one of the punishments under that law) undergone detention for a period extending up to one-half of the maximum period of imprisonment specified for that offence under that law, he shall be released by the Court on his personal bond with or without sureties:

Provided that the Court may, after hearing the Public Prosecutor and for reasons to be recorded by it in writing, order the continued detention of such person for a

period longer than one-half of the said period or release him on bail instead of the personal bond with or without sureties:

Provided further that no such person shall in any case be detained during the period of investigation, inquiry or trial for more than the maximum period of imprisonment provided for the said offence under that law.

Explanation.—In computing the period of detention under this section for granting bail, the period of detention passed due to delay in proceeding caused by the accused shall be excluded.

27. The appellant – Manish Sisodia has argued that given the number of witnesses, 294 in the prosecution filed by the CBI and 162 in the prosecution filed by the DoE, and the documents 31,000 pages and 25,000 pages respectively, the fact that the CBI has filed multiple charge sheets, the arguments of charge have not commenced. The trial court has allowed application of the accused for furnishing of additional documents, which order has been challenged by the prosecution under Section 482 of the Code before the High Court. It was stated at the Bar, on behalf of the prosecution that the said petition under Section 482 will be withdrawn. It was also stated at the Bar, by the prosecution that the trial would be concluded within next six to eight months.

28. Detention or jail before being pronounced guilty of an offence should not become punishment without trial. If the trial gets protracted despite assurances of the prosecution, and it is clear that case will not be decided within a foreseeable time, the prayer for bail may be meritorious. While the prosecution may pertain to an economic offence, yet it may not be proper to equate these cases with those punishable with death, imprisonment for life, ten years or more like offences under the Narcotic Drugs and Psychotropic Substances Act, 1985, murder, cases of rape, dacoity, kidnaping for ransom, mass violence, etc. Neither is this a case where 100/1000s of depositors have been defrauded. The allegations have to be established and proven. The right to bail in cases of delay, coupled with incarceration for a long period, depending on the nature of the allegations, should be read into Section 439 of the Code and Section 45 of the PML Act. The reason is that the constitutional mandate is the higher law, and it is the basic right of the person charged of an offence and not convicted, that he be ensured and given a speedy trial. When the trial is not proceeding for reasons not attributable to the accused, the court, unless there are good reasons, may well be guided to exercise the power to grant bail. This would be truer where the trial would take years.

29. In view of the assurance given at the Bar on behalf of the prosecution that they shall conclude the trial by taking appropriate steps within next six to eight months, we give liberty to the appellant – Manish Sisodia to move a fresh application for bail in case of change in circumstances, or in case the trial is protracted and proceeds at a snail’s pace in next three months. If any application for bail is filed in the above

circumstances, the same would be considered by the trial court on merits without being influenced by the dismissal of the earlier bail application, including the present judgment. Observations made above, re.: right to speedy trial, will, however, be taken into consideration. The appellant – Manish Sisodia may also file an application for interim bail in case of ill-health and medical emergency due to illness of his wife. Such application would be also examined on its own merits.

30. Recording the aforesaid, the appeals are dismissed. However, we clarify that the observations made in this judgment, either way, are only for disposal of the present appeals, and these would not influence the trial court on the merits of the case, which would proceed in accordance with law, and decided on the basis of the evidence led. All disputed factual and legal issues are left open.