IN THE COURT OF SH. JITENDRA SINGH, SPECIAL JUDGE
(PC ACT) (CBI)-23,(MPs/ MLAs CASES)
ROUSE AVENUE COURT COMPLEX: NEW DELHI

CBI Case No. 56/2022
CBI Vs. KULDEEP SINGH AND OTHERS
CNR No. DLCT11-000733-2022
FIR No. RC0032022A0053
PS CBI, ACB, New Delhi

In the matter of:-

Central Bureau of Investigation
CGO Complex, Lodhi Road,
New Delhi-110003.

Versus

A-1 Kuldeep Singh

A-2 Narender Singh

A-3 Vijay Nair

A-4 Abhishek Boinpally

A-5 Arun Ramchandra Pillai

A-6 Mootha Goutam

A-7 Sameer Mahendru

A-8 Manish Sisodia

A-9 Amandeep Singh Dhall

A-10 Arjun Pandey

A-11 Butchibabu Gorantla

A-12 Rajesh Joshi

A-13 Damodar Prasad Sharma

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A-14 Prince Kumar

A-15 Arvind Kumar Singh

A-16 Chanpreet Singh Rayat

A-17 Kavitha Kalvakuntla @ K. Kavitha

A-18 Arvind Kejriwal

A-19 Durgesh Pathak

A-20 Amit Arora

A-21 Vinod Chauhan

A-22 Ashish Chand Mathur

A-23 Sarath Chandra Reddy

(a)	**Date of institution of case**	:	**25.11.2022**
(b)	**Date on which order reserved**	:	**12.02.2026**
(c)	**Date on which order pronounced**	:	**27.02.2026**

ORDER ON CHARGE

Introduction:

1. At the outset, it is appropriate to record that the investigating agency, namely the Central Bureau of Investigation (hereinafter referred to as *"CBI"*), has filed one principal charge-sheet together with four supplementary charge-sheets in the present matter. For the purposes of clarity, uniformity and ease of reference, the accused persons, as enumerated hereinabove, shall hereinafter referred to as Accused Nos. *"A-1 to A-23"* respectively, unless the context otherwise requires. The Prevention of Corruption Act, 1988 shall

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hereinafter referred to as *"PC Act, 1988"*. M/S Brindco Sales Private Limited shall be referred to as *"M/S BSPL"*, M/S Khao Gali Restaurant Private Limited as *" M/S KGRL"*, Pernod Ricard India Private Limited as *"M/S PRI",* and the code of Criminal Procedure, 1973 as "*Cr. P.C."*

2. The allegations sought to be projected by the CBI, as emanating from the aforesaid charge-sheet and the supplementary charge-sheets, are set out and examined in the paragraphs that follow. It is clarified that the facts set out in the chargesheets are noted herein in brief. The detailed particulars, with requisite specificity, shall be examined under the respective heads of allegations while evaluating and analyzing the material placed on record by the Investigating Agency and the role attributed to each accused.

Main Charge sheet, dated 24.11.2022 (filed on 25.11.2022)

3. According to the prosecution, as set out in FIR No. RC0032022A0053 dated 17.08.2022, lodged by CBI/ACB, New Delhi on the complaint of Shri Praveen Kumar Rai, Director, Ministry of Home Affairs, certain public servants of the Excise Department, GNCTD, acting in concert with private individuals and liquor businessmen, entered into a criminal conspiracy during the framing and implementation of the Delhi Excise Policy 2021-22 (hereinafter referred to as *"DEP-21/22*"). It is alleged that this arrangement was intended to secure unlawful pecuniary advantage for themselves and

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for favoured private entities, thereby attracting offences under Section 120-B of the Indian Penal Code (hereinafter referred to as *"IPC"*) read with Sections 7, 7A and 8 of the PC Act, 1988.

4. The policy, brought into force on 05.07.2021, is stated to have been designed to curb monopoly and cartel formation by separating the functions of manufacturer, wholesaler (L-1 licensee) and retail zone licensee. The tender conditions barred wholesalers from holding or funding retail licences and imposed restrictions on entities with overlapping directors or controlling shareholding across manufacturing, wholesale or retail entities. Retail zones were to be allotted by e-tender against substantial participation fees and Earnest Money Deposits (hereinafter referred to as *"EMD"*), and a Tender Evaluation Committee (hereinafter referred to as *"TEC")* was constituted for scrutiny of bids. Twenty zones were awarded in the first round; twelve remained and were tendered afresh, in which M/S KGRL emerged as H-1 for Zones 2 and 3, leading to issuance of letters of award with the approval of the then Deputy Chief Minister.

5. The case put forward is that in May/June 2021, at the instance of A-3, a meeting was held at Gauri Apartments near Claridges Hotel, Delhi. It is stated that approver PW-20; Dinesh Arora, A-4, A-5 and others attended the meeting. The liquor policy was discussed and it was indicated that 7–10 retail zones in Delhi would be taken by the group. A-3 is stated to have introduced approver

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PW-20 as his close associate who would deal with excise matters in Delhi, coordinate with the others and keep him informed. It is alleged that between 18–20 June 2021, another meeting took place at ITC Kohenoor, Hyderabad, attended by the same persons. During this meeting, it was stated that ₹20–30 crores would be sent by A-4 to A-3 in Delhi, and that approver PW-20 would coordinate the transfer. Reliance is placed on hotel records to show their presence during this period. It is stated that in the said meeting it was decided that the wholesale distributorship in Delhi of M/S PRI and M/S DIAGEO would go to M/S Indospirits of A-7 and M/S BSPL of A-9, enabling these entities to earn the 12% wholesale margin on Indian Made Foreign Liquor (hereinafter referred to as *"IMFL"*). It is contended that the amount of ₹20–30 crores, described as "upfront money", was to be adjusted through business arrangements. A 65% partnership of A-5 in M/S Indospirits was to be secured. Further, 6% out of the 12% margin of M/S BSPL was to be returned by way of credit notes to retail zones controlled by A-4 and, after repayment, shared equally between A-4 and A-3. Approver PW-20 was assured a 25% share in M/S Indospirits, though no such share was ultimately given, and was told that he would be accommodated in future. It is stated that between July and September 2021, ₹20–30 crores were sent in cash through hawala channels to A-3 and his associates. A-4 is said to have communicated

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phone numbers and currency note details to Approver PW-20, who would pass the same to the team of A-3.

6. It is further alleged that A-3 used his influence to pressurize M/S PRI not to appoint M/S BSPL as its distributor in Delhi and to instead appoint M/S Indospirits, despite reservations about Indospirits' past financial record. A meeting is stated to have been held on 20.09.2021 at Hotel Taj Mansingh, New Delhi, attended by officials of M/S PRI along with A-7, A-5 and A-4, wherein the latter two allegedly projected themselves as investors in M/S Indospirits with support from prominent business houses in the South. Following this, M/S PRI appointed M/S Indospirits as its wholesale distributor and granted brand registrations.

7. Regarding public servants, the charge-sheet alleges that A-1 (then Deputy Commissioner, IMFL) and A-2 (then Assistant Commissioner, IMFL) became part of the conspiracy while dealing with M/S Indospirits' L-1 licence and in handling complaints relating to alleged cartelisation and cross-funding. Indospirits' first L-1 application dated 09.09.2021 drew certain deficiency memos, and a complaint dated 18.10.2021 alleging cartel practices and blacklisting was received. It is alleged that A-1 directed that important allegations concerning *"cross-funding/EMD funding"* of M/S KGRL by M/S Indospirits not be included in the show-cause notice and that no

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meaningful enquiry was undertaken. M/S Indospirits then sought withdrawal of this application, which was allowed on 05.11.2021.

8. The prosecution states that a second L-1 application dated 29.10.2021, substantially similar in structure, was processed unusually swiftly on 05.11.2021, the first working day after Diwali, notwithstanding the pendency of related proceedings before the Hon'ble Supreme Court and the subsisting allegations of cartelisation. It is alleged that the file contained deficiencies and that the Section Officer and Assistant Section Officer had proposed issuance of a deficiency memo, but A-2 directed them not to issue it, stating that he would obtain the necessary documents himself. It is claimed that the documents were then inserted into the file on the same day, without any covering letter or proper receipt, at a time when A-7 was present in the Excise office. A note was thereafter prepared, and with the approval of A-1, the L-1 licence was granted on the same day. In this context, the prosecution alleges that A-7 caused ₹30 lakhs to be paid as illegal gratification to A-2, on the instructions of A-3 and with the involvement of approver (PW-20) Dinesh Arora, for securing and expediting the licence.

9. The charge-sheet further asserts that the anti-cartel provisions of the policy were deliberately undermined by permitting and concealing cross-funding between M/S Indospirits (wholesaler) and M/S KGRL (retailer). It is alleged that during the first round of

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bidding, ₹10.80 crores were transferred from the account of M/S Indospirit Marketing Private Limited (hereinafter referred to as *"IMPL"*) to the account of M/S KGRL, and demand drafts towards EMD were prepared out of the said amount. It is stated that in the second round of bidding, twelve demand drafts of ₹10 lakhs each towards application fee were prepared from the account of M/S KGRL, after transferring funds in two instalments of ₹60 lakhs each from M/S IMPL. It is further stated that a demand draft of ₹5 crores towards EMD was prepared from the account of M/S KGRL after money was transferred in three instalments from M/S IMPL. The authorised signatory and net banking operator of the bank accounts of M/S IMPL are stated to be A-7, his wife and his father.

10. On the financial front, it is alleged that between November 2021 and September 2022, M/S Indospirits recorded a turnover of about ₹1,333 crores, earning gross margins of around ₹111 crores and net distributable profits of ₹47.68 crores, of which nearly 61% (₹29.29 crores) was transferred to or for the benefit of A-5, far exceeding his declared investment and share in the joint venture. The prosecution refers to complex fund movements from M/S Indospirits to A-5, and from him to A-6 and companies associated with A-4, including media and broadcasting firms such as India Ahead News Pvt. Ltd. (hereinafter referred to as *"IANPL"*), Andhra Prabha Publication Pvt. Ltd. (hereinafter referred to as *"APPL"*), CDG

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Broadcasting Pvt. Ltd. and Zeus Networking Pvt. Ltd. Certain *"loan agreements"* produced to explain these transfers are alleged to be sham, with employees stating that they were made to sign without understanding the contents. These transactions, according to the prosecution, represent the routing and utilisation of proceeds generated from the alleged excise policy scheme.

11. On this foundation, supported, according to the main charge-sheet, by witness statements (including that of approver Dinesh Arora), banking and corporate records, digital material, CDRs, hotel documents and other seized articles, seven persons have been arrayed as accused A-1, A-2, A-3, A-4, A-5 A-6 and A-7. It is also stated that the requisite sanction for prosecution under Section 19 of the PC Act, 1988 has been granted in respect of accused public servants A-1 and A-2.

First Supplementary Charge-sheet, dated 25.04.2023 (filed on 25.04.2023)

12. In the first supplementary charge-sheet, the prosecution maintains that A-8, the then Deputy Chief Minister and was heading the Excise Department in concert with certain public servants and private individuals to improperly influence the framing and implementation of the DEP-21/22. It is alleged that the policy was steered in a manner intended to benefit a select group of liquor, wholesalers and retailers, in return for unlawful gratification.

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13. The prosecution case is that an Expert Committee headed by Sh. Ravi Dhawan submitted its report on 13.10.2020 recommending continued Government control over wholesale, complete privatization of retail vends to individual and allotted through lottery and other safeguards to prevent cartelisation. According to the CBI, this report was not processed in the normal course and was kept aside, as A-8 allegedly intended to follow a different model favouring private entities. Public comments were invited from 31.12.2020 to 21.01.2021. During this period, it is alleged that PW-92 Zakir Khan helped generate fabricated *"public feedback"* emails at the behest of A-8, to create an impression of public support for allotment of retail liquor licence through auction, reduction of Excise and VAT as well as enhancement of license fee and increase in number of liquor vends.

14. A draft Cabinet Note dated 28.01.2021 was thereafter prepared, containing the Expert Committee report, public feedback and legal opinions from Hon'ble Justice (Retd.) Ranjan Gogoi, Hon'ble Justice (Retd.) K.G. Balakrishnan and Senior Advocate Shri Mukul Rohatgi obtained by Delhi ALCOBEV Retailer Association, all of whom are stated to be in favour of status quo. This file, allegedly, was never placed before the Council of Ministers and subsequently went missing. Based on the file-movement register, witness statements

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and digital material, the CBI alleges that the file was last in the conscious possession of A-8 and was deliberately removed.

15. It is further alleged that after the disappearance of this file, a fresh note was initiated on 02.02.2021, omitting the earlier legal opinions, and directions were given to the then Excise Commissioner to prepare a new Cabinet Note aligned with A-8 preferred model. On 05.02.2021, a Group of Ministers (hereinafter be referred to as *"GoM"*) was approved to frame the new regime headed by A-8. Although several meetings were claimed to have taken place, no formal minutes were maintained and even the Excise Commissioner was largely kept out of the core deliberations. Forensic examination of computers seized from the office of the Deputy Chief Minister allegedly yielded various draft GoM reports, in which he is shown as the main author, with edits attributed to him by witnesses. In the second draft GoM report dated 19.03.2021, the wholesale margin was abruptly increased from 5% to 12% and the eligibility criteria for turnover for wholesaler was also increased from Rs. 100 Crore to Rs. 500 Crore, every year for past 5 years, which is based upon the printout of 36 pages taken by member of south group and handed over to A-3 which was further handed over to A-8.

16. Relying on these drafts, it is alleged that A-8 introduced key policy changes, in final GoM report dated 22.03.2021, including raising the wholesale margin to 12%, relaxing eligibility norms,

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diluting the related-entity restriction and reviving the zonal licensing system, and turnover criteria was reduced to Rs. 250 Crore every year for past 3 years, contrary to Expert Committee recommendations. These changes are alleged to have been made to favour a lobby of liquor businessmen referred to as the *"South Group"*, in pursuance of a prior understanding.

17. It is stated that emphasis on the alleged role of A-3 as the intermediary between A-8 and the South Group. It is alleged that he, along with A-4, A-5, A-6 and A-23, negotiated illegal gratification of ₹90-100 crores, part of which was to be routed through hawala. Meetings at various hotels and travel records are cited to support this allegation. It is further alleged that a draft of the GoM report was photocopied at Hotel Oberoi, as reflected in the photocopy logs.

18. A-7 of M/S Indospirits is described as a major beneficiary. The prosecution claims that M/S Indospirits was structured to represent the South Group, with A-5 holding beneficial interest on their behalf. To address cross-ownership concerns, the resignation and later induction of Smt. Geetika Mahendru into M/S Indospirits are stated to have been used to conceal links with retail entities. M/S Indospirits allegedly earned profits of ₹29.29 crores, forming part of the funds circulated as bribe money. It is alleged that A-3 in the meeting at Hotel Taj on 01.03.2021 with Sh. I.P. Suresh

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Menon (PW-101) demanded undue gratification for favourable clauses

19. The prosecution also relies on banking records, credit-note ledgers and fund flows. A-9 is alleged to have issued un-authorised credit notes amounting to ₹4.97 crores to retail firms out of which 2.58 Crore to retail firm linked with the South Group, enabling cash generation for hawala transfers. Payments from M/S Indospirits to media companies linked with A-6 and A-10 are described as sham transactions intended to layer the proceeds of crime.

20. A-11 is alleged to have assisted the South Group incorporating favorable clauses and to have been involved in policy-draft discussions. A confidential Excise Department tender document recovered from him is cited to suggest unauthorised access to official records.

21. The prosecution further alleges destruction of electronic evidence, stating that two mobile phones used by A-8 during the relevant period were discarded shortly before he was summoned, thereby attracting Section 201 IPC. Digital evidence, such as recovered draft policy files, email headers of feedback, WhatsApp chats and metadata indicating authorship of drafts, has been produced with Section 65-B certification. Sanction for prosecution of the concerned public servants has also been obtained.

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22. On this basis, the prosecution asserts that a *prima facie* case exists that A-8, accused public servants A-1 and A-2, A-3, South Group members A-4, A-5, A-6 and A-11, and other private accused persons including A-7, A-9 and A-10, entered into a conspiracy punishable under Sections 120-B, 420 and 201 of IPC and the provisions of Section 7, 7A, 8 and 12 of the PC Act, 1988 to manipulate the excise policy for wrongful gain and to conceal or destroy material evidence.

Second Supplementary Charge-sheet (Final Report No. 03), dated 08.07.2023 (filed on 10.07.2023)

23. The second supplementary charge-sheet (Final Report No. 03) dated 08.07.2023 was filed under Section 173 of Cr.P.C in continuation of the earlier charge-sheets already submitted in the same FIR.

24. The prosecution case is that the DEP-21/22 was allegedly manipulated and tweaked with a preconceived design to extend undue benefit to certain private persons/entities described as the *"South Group"* and allied intermediaries. It is alleged that such purported policy favour was extended in consideration of illegal gratification quantified by the agency at approximately ₹90–100 crores, allegedly paid for the benefit of A-3, described as an associate of A-8. It is further alleged that part of the said illegal gratification was arranged and routed through hawala/angadiya channels and utilised

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for political campaign expenditure, including the Goa Assembly Election campaign of 2022.

25. In substance, the supplementary report alleges that members of the so-called *"South Group"*, including A-5, A-4, A-6 and their Chartered Accountant/associate A-11, paid illegal gratification for being favoured under the policy framework. The alleged policy benefits include, inter-alia, enhancement of the wholesaler margin from 5% to 12%, adoption of a model allegedly restricting distribution to "one wholesaler per manufacturer", zonal structuring and auctioning of vends, and the creation of commercial mechanisms such as rebates or credit-notes linked to up-front payments. It is alleged that inputs attributed to such private persons found reflection in official recommendations and/or appeared in substance in GoM-related material, which, according to the prosecution, indicates a direct role of south group in policy shaping.

26. It is further alleged that A-9, connected with M/S BSPL, facilitated interactions and meetings between A-3 and certain stakeholders/manufacturers, and that through business arrangements, including additional credit-notes and other transfers, funds were generated and channelled, allegedly by way of commission sharing and cash transfers, for the benefit of the "South Group" and for onward movement through informal channels.

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27. A central plank of the present supplementary report is the alleged diversion and utilisation of a substantial portion of the purported illegal gratification for election-related expenditure. It is alleged that out of ₹90–100 crores, an amount of approximately ₹44.54 crores was utilised for the Aam Aadmi Party's Goa Assembly Election campaign (2022), and that the same was moved from Delhi to Goa through hawala/angadiya operators in multiple tranches, using different conduits and cash handlers.

28. For this purpose, the supplementary report relies upon alleged financial, documentary and digital material, including records recovered during Income-tax action in Goa relating to angadiya entities, statements of persons connected with such angadiya firms, and call-detail records, location data and WhatsApp/digital linkages, to suggest coordination in relation to cash transfers. It is alleged that cash was routed through various angadiya entities/firms, including M/S Asil Corporation and M/S R. Kantilal Finance & Courier Services, as well as other Delhi-based channels, and that the recipients in Goa included persons stated to be associated with the election campaign.

29. It is specifically alleged that A-12 (Director, M/S Chariot Productions Media Pvt. Ltd.), A-13 and A-14 (employees/associates connected with the said media agency), along with A-15 (then connected with IANPL) and A-16, acted as conduits

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and cash handlers for receiving, transferring and disbursing the alleged illegal funds for campaign purposes in Goa Election. The report states that cash payments were made to campaign workers, vendors and managers in Goa, including towards salaries and logistics, and that the aforesaid accused persons were involved in arranging and effecting such disbursements in cash.

30. The report further alleges that certain public-relations consultants or individuals connected with agencies engaged by the Directorate of Information and Publicity, GNCTD, were simultaneously utilised for party or campaign work, thereby suggesting misuse or diversion of public-funded PR machinery. According to the prosecution, such alleged use, when viewed along with the purported hawala movement and cash disbursements, forms part of the overarching conspiracy said to have arisen from the alleged manipulation of the excise policy and the generation of illicit funds.

31. On the basis of the aforesaid allegations and the material collected during further investigation, the CBI, through the present second supplementary charge-sheet dated 08.07.2023, seeks summoning and trial of the newly arraigned accused i.e. A-12, A-13, A-14, A-15 and A-16 for offences alleged to be made out under Section 120-B IPC and Sections 7, 7A, 8 and 12 of the PC Act, 1988, along with allied provisions as set out in the report.

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Third Supplementary Charge-sheet, dated 06.06.2024 (filed on 07.06.2024)

32. The supplementary charge-sheet alleges that A-17 emerged as a key conspirator in the criminal conspiracy relating to the formulation, manipulation and implementation of the DEP-21/22. It is alleged that she demanded, collected and caused payment of ₹100 crores as upfront money to the Aam Aadmi Party for securing favourable provisions and business opportunities for liquor businessmen from South India. The prosecution relies primarily on the statements of Sh. Magunta Sreenivasulu Reddy, (PW-225) his son and approver Sh. Raghav Magunta (PW-226), and approver Sh. Dinesh Arora (PW-20) to project the demand, payment and utilisation of the alleged upfront money.

33. According to the prosecution, A-17 operated through her associates A-4, A-5 and A-11, who coordinated with A-3 in furtherance of the conspiracy. It is alleged that ₹25 crores out of the upfront money was paid in cash by approver Sh. Raghav Magunta, ₹10 crores in March 2021 and ₹15 crores in June 2021, through persons identified by the said associates, on the demand of A-17, for securing favourable provisions in the Excise Policy.

34. The charge-sheet alleges that A-17 was aware of, and referred to, the meeting of Sh. Magunta Sreenivasulu Reddy with the Chief Minister of Delhi (A-18) on 16.03.2021. It is further alleged that

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she conveyed that ₹100 crores was to be paid as upfront money for favourable policy provisions.

35. It is alleged that her associates were actively involved at the policy-formulation stage and influenced draft GoM Reports, resulting in the increase of the wholesaler margin from 5% to 12% and the raising of turnover eligibility for L-1 wholesale licences. These changes are attributed to A-17 through her associates. The prosecution relies on WhatsApp chats recovered from A-11, described as her Chartered Accountant and close associate, which allegedly contain discussions on policy tweaking, appointment of consultants, repeated Delhi visits and structuring of business opportunities. It is alleged that the provisions discussed in WhatsApp chats dated 06.03.2021 and 20.03.2021 were incorporated verbatim in the final GoM Report dated 22.03.2021.

36. The prosecution further alleges that during the period 14.03.2021 to 17.03.2021, associates of A-17 stayed at Hotel Oberoi, New Delhi, used business-centre facilities, meeting rooms, photocopying services and hotel vehicles, and that hotel records, bills, vehicle GPS data, mobile phone location analysis and Call Detail Records establish coordination between her associates and A-3. It is alleged that her associates met A-3 on 14.03.2021 and 16.03.2021, coinciding with A-3's visit to the Chief Minister's residence where A-8 was also present.

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37. It is alleged that M/S PRI appointed M/S Indospirits as wholesaler under the influence of A-3, and that pressure was exerted on company officials when they were reluctant. The prosecution alleges that A-17 held a 32.5% stake in M/S Indospirits through her proxy A-5, while approver Sh. Raghav Magunta was also given a 32.5% stake through his proxy Prem Rahul Manduri (PW-270) in lieu of upfront money, with M/S Indospirit Distribution Ltd. holding the remaining share. It is alleged that A-17 arranged funds for A-5's investment of ₹3.4 crores in Indospirits, including funds sourced from persons stated to be close to her, one of whom allegedly transferred ₹1 crore on her directions. It is further alleged that her relative received payments from Indospirit Distribution Ltd. without commensurate work.

38. The charge-sheet alleges that A-17's role also surfaced in the transfer of alleged ill-gotten money to Goa through hawala channels for the AAP Goa Assembly Election. It is alleged that her associates A-4 and her PA Ashok Kaushik (PW-195) were involved in hawala transfers, that A-15 acted as a conduit for transferring ₹7.10 crores from Delhi to Goa through hawala channels based on statements of a hawala operator, and that A-16 received and distributed the money in Goa. It is further alleged that ₹30 crores was routed through approver Sh. Dinesh Arora via hawala channels, and that Ashok

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Kaushik collected and delivered multiple bags of cash during June–August 2021.

39. It is alleged that A-17 used M/S Indospirits as a vehicle to recoup the upfront money and that between January 2022 and August 2022, approximately ₹29.29 crores was transferred from M/S Indospirits to A-5, representing about 61% of the profits of the firm despite his limited capital contribution. It is further alleged that funds were further routed from M/S Indospirits through A-5 to A-6 and A-11 and to A-17.

40. The charge-sheet further alleges that A-17 recouped ₹14 crores through a sham land transaction with M/S Mahira Ventures Pvt. Ltd. (Aurobindo Group), controlled by A-23. It is alleged that the land value was artificially doubled from ₹14 crores to ₹28 crores, that ₹14 crores was paid as advance, that the land was never transferred, and that WhatsApp chats of A-11 show insistence on inflating value and removing interest clauses, indicating that the transaction was only a pretext to recoup upfront money.

41. The prosecution also alleges that, apart from the land transaction, A-17 received ₹80 lakhs through CSR contributions routed via an Aurobindo Group company in favour of her NGO Telangana Jagruthi, and that in lieu of these payments, A-23 was favoured in award and retention of retail zones. It is further alleged that upon withdrawal of the Excise Policy, substantial dues payable by

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entities controlled by A-23 to M/S Indospirits remained unpaid, and that instructions were conveyed not to remit the same.

42. It is recorded that the confessional statement of approver Sh. Raghav Magunta was recorded under Section 164(2) of Cr.P.C. and that he was granted tender of pardon under Section 306 of Cr.P.C. On the basis of the aforesaid allegations, it is asserted that offences punishable under Section 120-B read with Sections 201 and 420 IPC and Sections 7, 7A, 8 and 12 of the PC Act, 1988 are disclosed against A-17.

Fourth Supplementary Charge-sheet dated 29.07.2024 (filed on 30.07.2024)

43. Upon consideration of the allegations as projected in the Fourth Supplementary Charge-sheet, the prosecution case, in substance, is that on 16.03.2021 Sh. Magunta Sreenivasulu Reddy (PW-225) met A-18 at the Delhi Secretariat and sought support for liquor business in Delhi under the then upcoming Excise Policy 2021–22. It is alleged that A-18 assured support, directed him to contact A-17 stating that she was working with his team on the said policy, and further asked him to provide monetary funding to AAP. It is further alleged that on 19.03.2021 accused A-17 contacted Sh. Magunta Sreenivasulu Reddy and a meeting took place on 20.03.2021 at her residence in Hyderabad, where she referred to the meeting dated 16.03.2021 and demanded ₹50 crores as contribution out of alleged

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upfront money of ₹100 crores, to be paid to AAP through accused A-3, in lieu of favourable provisions in the upcoming Excise Policy. It is then alleged that associates of A-17, namely A-11 and A-4, demanded and received ₹25 crores from approver Sh. Raghav Magunta in two instalments of ₹10 crores in March 2021 and ₹15 crores in June 2021. It is also alleged that A-18 admitted meeting with Sh. Magunta Sreenivasulu Reddy, but stated it was in connection with allotment of land for a family trust, whereas the Office of the Chief Minister, GNCTD allegedly confirmed that no such request exists on record.

44. The prosecution further alleges that on 18.03.2021 Sh. C. Arvind, Secretary(PW-71) to A-8, was called to the CM's Camp Office at the residence of A-18 and, in the presence of A-18 and Sh. Satyendra Jain, A-8 handed over a printed hard copy of a draft GoM report relating to Excise Policy 2021–22 and directed that it be typed, indexed and formatted on the computer system at the Dy. CM's office. It is alleged that the typing work was completed on 18.03.2021 and 19.03.2021 with assistance of Sh. Sunil Singhal, PS to the Dy. CM, and the prosecution relies upon statements under Sections 161/164 of Cr.P.C. and recovery of the typed draft. It is alleged that the wholesale profit margin was enhanced from 5% to 12% in the draft and that the draft GoM report dated 19.03.2021 consisted of 36 pages; it is highlighted that 36-page photocopies were allegedly taken by South Group accused persons from Hotel Oberoi on 16.03.2021. It is then

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alleged that the signed GoM Report recommending a 12% wholesale margin was placed before the Council of Ministers on 22.03.2021 and accepted vide Cabinet Decision No. 2983 dated 22.03.2021 with approval of A-18, and the Excise Department was directed to implement the GoM Report and prepare the Excise Policy 2021–22. It is further alleged that GoM minutes dated 05.04.2021 approved modifications including the definition of *"related entities"* for grant of L-1 licences, which, according to the prosecution, was framed to favour the South Group and A-7, with M/S Indospirits being used as a medium for transfer of ill-gotten money.

45. It is further alleged that based on the GoM report dated 22.03.2021 and minutes dated 05.04.2021, the Excise Department prepared the draft Excise Policy, licence terms, zoning of wards, reserve licence fee fixation and amendments to the Delhi Excise Rules, 2010; that it was approved by A-8 and thereafter by A-18 on 15.04.2021; and that the Cabinet approved it vide Cabinet Decision No. 2994 dated 15.04.2021. It is alleged that on 20.04.2021 A-8 noted that Excise is a Transferred Subject and not a Reserved Subject and the file was sent to the Hon'ble LG under the proviso to Article 239AA(4) of the Constitution. It is further alleged that on 19.05.2021 the LG Secretariat returned the file stating that the matter was discussed with the Hon'ble LG, CM and Dy. CM, and A-18 marked it to A-8 with the remark *"As discussed"*, followed by a note dated

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20.05.2021 stating that suggestions were given by the LG and proposing incorporation of changes, pursuant to which a fresh draft Cabinet Note was prepared and Cabinet approval by circulation was proposed.

46. According to the prosecution, one of the major changes allegedly incorporated on the pretext of LG's suggestion was reduction of turnover eligibility for L-1 licence from ₹250 crores to ₹150 crores per year for three consecutive financial years, applicable to turnover blocks of 2017-18, 2018-19 and 2019-20, with M/S Indospirit being alleged as the principal beneficiary as its turnover allegedly crossed ₹150 crores but not ₹250 crores. It is alleged that M/S Indospirit did not fulfill the ₹250 crore eligibility prescribed in the GoM report dated 22.03.2021 and that A-8 falsely recorded that the reduction was on LG's suggestion, and that this reduction was confirmed by A-18, thereby manipulating the policy to confer undue favour on M/S Indospirit, which is further alleged to be a vehicle for transfer of ill-gotten money.

47. It is further alleged that the aforesaid manipulation is reflected in unusual haste in movement of the Excise Policy file between 20.05.2021 and 21.05.2021 through multiple departments and offices, including the LG Secretariat, Finance Department, Excise Department, GAD, Council of Ministers by circulation, CM Office and Dy. CM Office, and back to the LG Secretariat, despite peak Covid

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conditions, and that officials stated that urgent approval by circulation was sought on directions attributed to A-8 and conveyed through Sh. Bibhav Kumar, PS to A-18, stating that the Chief Minister desired urgent approval.

48. The prosecution further alleges that the said haste coincided with the presence of South Group accused persons in Delhi, namely A-23, A-4, A-5 and A-11, who allegedly came to Delhi on 20.05.2021, stayed at Hotel Oberoi till 21.05.2021, and met A-3 along with co-accused A-9, A-10 and approver Dinesh Arora (PW-20) at Gauri Apartment near Claridges on 21.05.2021, where they allegedly conspired to capture 7–10 retail zones with the help of A-3. Reliance is placed on the statement of approver Dinesh Arora under Section 164 of CrPC, hotel records and mobile location data, and it is further alleged that the guest house was booked by Sh. Bibhav Kumar for A-19.

49. The prosecution alleges that proceeds of the alleged Excise Policy conspiracy were utilised for AAP's Goa Assembly Election campaign. It is alleged that between 21.06.2021 and 10.01.2022 cash totalling ₹44,54,22,500 was received in Goa by A-16, Rajiv Ashok Mondkar and A-14 through hawala/angadiya channels including M/S R. Kantilal Finance and Courier Service; that Rajiv Ashok Mondkar confirmed under Section 164 of Cr.P.C. that he acted on instructions of A-16 and handed over cash to him; and that M/S

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Chariot Productions Media Pvt. Ltd. was engaged by AAP for outdoor campaign work, with reliance placed on records seized during an Income Tax raid dated 29.01.2022. It is further alleged that angadiya records connect the origin of the plan to a meeting at Hotel ITC Kohinoor, Hyderabad on 19.06.2021 involving A-3, A-4 and approver Dinesh Arora, pursuant to which cash was sent from Delhi to Goa from 21.06.2021 onwards. It is alleged that ₹11.93 crores was delivered in Goa through M/S Asil Corporation, whose owner stated that the cash was provided by A-12 and A-13 of M/S Chariot; that ₹7,10,92,500 was delivered to A-16 between 04.01.2022 and 10.01.2022 through M/S K.S. Enterprises on instructions of Devang Solanki, who, on the basis of his statement and WhatsApp chats, allegedly received cash from A-15 at Delhi; and that the remaining amount was routed through Delhi-based angadiyas and persons linked to A-21, supported by CDRs.

50. It is further alleged that the aforesaid ₹44.54 crores, alleged to be part of upfront money of ₹90-100 crores, was used for campaign and election-related expenses of AAP in Goa, and that A-18, along with accused A-19 (Goa Prabhari), played a role in transfer and utilisation of such funds, with candidates being assured that election expenses would be borne by the party, and with reliance on statements of candidates/witnesses asserting that expenses were met in cash.

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51. It is stated that digital material extracted from the Apple iPhone of A-21 disclosed WhatsApp chats with a mobile number stated to be used by A-18, saved as *"HCMAK/HCM AK",* and that multiple numbers attributed to A-18, as well as numbers of A-8 and other AAP functionaries, were found saved in A-21's contact list. It is alleged that images of WhatsApp chats with A-18 and images of 11 GC notes of ₹10 denomination were retrieved from the phone, and that a screenshot containing the serial number of a ₹10 note allegedly received from A-16's phone was also found therein. On this basis, it is alleged that A-21 was acting on behalf of A-18 and AAP as a conduit for transfer of alleged ill-gotten money to Goa through hawala channels, which was utilised by A-16 for cash payments to vendors, assembly managers, booth in-charges and volunteers engaged during the Goa elections. It is further alleged that A-21, in association with A-22, acted as conduit for transfer of ₹25.50 crores to Goa, stated to have been utilised for election-related expenditure through A-19 and A-16, and that A-21 was also associated with A-17 (through her PA Ashok Kaushik) and A-4.

52. The prosecution further alleges that during investigation the role of A-20, owner of M/S Buddy Retails Pvt. Ltd., surfaced in conspiracy with A-3 and approver Dinesh Arora (PW-20) to extract 6% commission out of the 12% wholesale margin from M/S Mahadev Liquors, and upon refusal, to pressurise Ms. Jasdeep Kaur Chadha

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(PW-298) by allegedly using influence in Punjab to get her distilleries/breweries closed through Punjab Excise officials, compelling surrender of wholesale business of four manufacturers and thereafter surrender of the wholesale licence of M/S Mahadev Liquors. It is alleged that she was directed to donate ₹51 lakhs to the Chief Minister's Relief Fund, Punjab, through cheque and send proof, and that reopening of factories followed the donation and compounding of penalty. The prosecution alleges corroboration by WhatsApp chats recovered from Ms. Jasdeep Kaur Chadha's phone with Sh. Puneet Dewan (PW-299) and Punjab Excise officials showing repeated requests for reopening, exchange of cheque photographs, and timing of surrender communications on 25.05.2022.

53. It is further alleged that approver Dinesh Arora, in statements recorded under Sections 164 and 306 of Cr.P.C., stated that the factory closures were used to create pressure when 6% commission was denied, and that after M/S Mahadev Liquors quit, he was directed to identify replacement parties for the wholesale business for easier extraction of 6%, resulting in selection of M/S Dewan Spirits and M/S Shiv Associates, with a proposal of 50% partnership. The prosecution further relies on statements of Sh. Sanjit Padhi under Sections 161 and 164 of Cr.P.C. to allege that he was approached in mid-May 2022 for shifting of wholesale business of named manufacturers to the said entities on directions of *"party high command"*, which he presumed to

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mean senior AAP leaders including A-18 and A-8, and on statements of Sh. Prabhjot Singh (PW-304) of M/S Shiv Associates to allege that wholesalership was assured in consideration of transfer of 50% shareholding and payment of 6% out of the 12% margin, with alleged corroboration from representatives of manufacturers and distributors. It is further alleged that sanction to investigate certain Punjab Excise officials under Section 17-A of the PC Act, 1988 was sought but denied by the Government of Punjab.

54. It is alleged that A-23 paid ₹14 crores to A-17 towards recoupment of alleged upfront money in the guise of a sham land transaction, through an Agreement of Sale dated 12.07.2021 executed with M/S Mahira Ventures Pvt. Ltd. for 15 acres of agricultural land in Mahaboob Nagar District, Telangana, reflecting total consideration of ₹28 crores and advance of ₹14 crores paid in two installments of ₹7 crores each, though the land was never transferred or registered. It is further alleged that investigation revealed discrepancies in ownership of certain survey numbers and that prevailing market rates were substantially lower than the consideration shown, and hence the agreement was a façade for exchange of bribe money; the first installment of ₹7 crores paid on 15.07.2021 is alleged to have been traced to M/S Trident Chemphar Ltd. of the Aurobindo Group. It is further alleged that an additional ₹80 lakhs was paid to the NGO

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Telangana Jagruthi through an Aurobindo Group company under CSR in June 2021 through cheques of ₹21 lakhs and ₹59 lakhs.

55. According to the prosecution, in lieu of these payments, A-23 was favoured with allotment of five retail zones under the DEP-21/22, despite policy provisions restricting allocation beyond two retail zones per entity, and that he participated in bidding for six retail zones through three related entities. It is further alleged that upon withdrawal of the Excise Policy on 31.08.2022 an outstanding of about ₹60 crores was payable on five retail zones controlled by him to M/S Indospirits associated with A-7 and A-5, and that ₹46,88,78,307/- remained unpaid, with A-23 being favoured by being allowed not to clear the dues. It is also alleged that A-23 played a role in securing distributorship of M/S PRI for M/S Indospirits, and that A-3 intervened to stop BSPL's appointment and influenced officials of M/S PRI, with meetings including at Taj Mahal Hotel on 20.09.2021 involving various persons being cited as reflecting a plan to steer distributorship towards M/S Indospirits through undue influence and support.

56. It is stated that certain Excise Department officials were found negligent in handling cartelisation complaints but no evidence surfaced of their involvement in the alleged conspiracy or receipt of quid pro quo, and therefore they were not prosecuted; similarly, though Sh. Sunny Marwah/M/S Mahadev Liquors, Sh. Manoj Rai and M/S

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Buddy Retails Pvt. Ltd. were named in the FIR, it is alleged that no sufficient evidence was found to establish their involvement and hence they were not prosecuted. On the basis of the aforesaid allegations, the prosecution claims that offences punishable under Section 120-B read with Sections 201 and 420 IPC and Sections 7, 7A, 8 and 12 of the PC Act, 1988 are made out against A-18, A-19, A-20, A-21, A-22 and A-23; it is further stated that sanction for prosecution under Section 19 of the PC Act, 1988 has been sought in respect of A-18 and is awaited, whereas sanction is stated not to be required in respect of A- 19, as the acts attributed are alleged not to be connected with official duty.

(A) POSITION IN LAW---PRINCIPLES FOR APPRECIATING PROSECUTION MATERIAL AT THE STAGE OF CHARGE:

1. Stage of charge: limited scrutiny, but real application of mind

57. At the stage of consideration of charge, the Court is not required to undertake a detailed evaluation of evidence or to test the probative value of the material as at trial. The Court proceeds on the premise that the prosecution material, as presented, is prima facie true and uncontroverted. Cross-examination and defence rebuttal are not part of this stage. At the same time, the law is equally clear that the Court is not to act merely as a post office or a mouthpiece of the prosecution. The Court must apply its judicial mind to the record to assess whether the material, taken at face value, discloses the essential

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ingredients of the alleged offence and raises grave suspicion, as distinct from a mere suspicion.

58. The governing principles have been authoritatively summarised by the Hon'ble Supreme Court in **Sajjan Kumar v. Bureau of Investigation (2010) 9 SCC 368.** The relevant extract is reproduced for ready reference:

> *"….21. On consideration of the authorities about the scope of Sections 227 and 228 of the Code, the following principles emerge:*
> *(i) The Judge while considering the question of framing the charges under Section 227 CrPC has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out. The test to determine prima facie case would depend upon the facts of each case.*
> *(ii) Where the materials placed before the court disclose grave suspicion against the accused which has not been properly explained, the court will be fully justified in framing a charge and proceeding with the trial.*
> *(iii) The court cannot act merely as a post office or a mouthpiece of the prosecution but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the court, any basic infirmities, etc. However, at this stage, there cannot be a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.*
> *(iv) If on the basis of the material on record, the court could form an opinion that the accused might have committed offence, it can frame the charge, though for conviction the conclusion is required to be proved beyond reasonable doubt that the accused has committed the offence.*
> *(v) At the time of framing of the charges, the probative value of the material on record cannot be gone into but before*

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framing a charge the court must apply its judicial mind on the material placed on record and must be satisfied that the commission of offence by the accused was possible.
(vi) At the stage of Sections 227 and 228, the court is required to evaluate the material and documents on record with a view to find out if the facts emerging therefrom taken at their face value disclose the existence of all the ingredients constituting the alleged offence. For this limited purpose, sift the evidence as it cannot be expected even at that initial stage to accept all that the prosecution states as gospel truth even if it is opposed to common sense or the broad probabilities of the case.
(vii) If two views are possible and one of them gives rise to suspicion only, as distinguished from grave suspicion, the trial Judge will be empowered to discharge the accused and at this stage, he is not to see whether the trial will end in conviction or acquittal….".

59. In essence, the Court must examine whether the prosecution material, if taken at face value and accepted in its entirety, discloses a prima facie case giving rise to grave suspicion. If such grave suspicion exists, that suffices for framing of charge. Conversely, if the material discloses only a mere suspicion and not grave suspicion, discharge follows. At this stage, the Court is required to see whether the material, if uncontroverted, discloses the essential ingredients of the alleged offences.

2. Strong suspicion: must be based on material capable of becoming evidence

60. Recently, the Hon'ble Supreme Court in **Tuhin Kumar Bishwas @ Bumba v. State of West Bengal, 2025 SCC OnLine SC 2604** reiterated that, absent a strong suspicion founded on material

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capable of becoming evidence, an accused can be discharged, while emphasising that the Court must outline and apply the settled principles governing discharge/charge.

61. The decision, after referring to Ram Prakash Chadha v. State of UP (2024) 10 SCC 651 and earlier authorities including Stree Atyachar Virodhi Parishad v. Dilip Nathumal Chordia (1989) 1 SCC 715, P. Vijayan v. State of Kerala (2010) 2 SCC 398, and Union of India v. Prafulla Kumar Samal (1979) 3 SCC 4, reiterates that the *"ground"* under Section 227 of CrPC is not a ground for conviction but a ground for putting the accused on trial, and that where two views are possible and one gives rise only to suspicion and not grave suspicion, the Court is empowered to discharge.

62. The said judgment also cites with approval **M.E. Shivalingamurthy v. CBI, Bengaluru (2020) 2 SCC 768**, which summarises that:

(i) if two views are possible and one gives rise to suspicion only, as distinguished from grave suspicion, discharge is justified;

(ii) the Court is not a mere post office;

(iii) the Court sifts the statements/documents produced by the prosecution to see if there is sufficient ground to proceed;

(iv) if the evidence proposed, even if fully accepted, cannot show commission of offence, there is no sufficient ground for trial; and
(v) there must exist some material for entertaining a strong suspicion which can form the basis for drawing up a charge.

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63. Thus, while the threshold at this stage is not proof beyond reasonable doubt, the suspicion required must still be strong and grounded in material, and not in conjecture or narrative convenience.

4. Documentary material: file notings and policy deliberations

64. A substantial part of prosecutions arising out of policy decisions centres on internal file notings, administrative observations, and governmental deliberations. Such notings, by their nature, record internal discussions and divergent views. They do not, without more, constitute incriminating material, nor do they indicate dishonest intention or an overt criminal act.

65. The mere fact that a policy may not have yielded the expected results cannot, in the absence of substantive evidence, be elevated to criminal culpability. Criminal law cannot be invoked to revisit or punish administrative discretion, particularly when the record shows that the actions in question were confined to policy formulation and implementation undertaken in the ordinary course of governance.

66. While a detailed evaluation of evidence is impermissible at the stage of charge, it is equally true that where the case is predominantly documentary and rests substantially on internal notings

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and policy papers, the Court must undertake the limited scrutiny mandated by law to ensure that criminal process is not employed as a vehicle to challenge executive decisions under the guise of prosecution. The Court is therefore required to see whether the documents relied upon, taken at face value, disclose the ingredients of the alleged offences, and whether there exists independent material pointing to mens rea, quid pro quo, or abuse of office, beyond mere administrative processing.

5. Policy decisions: limits of criminal prosecution

67. In a developing economy, policy changes are routine and often necessary for increasing revenue, improving regulatory frameworks, or advancing public welfare objectives. Policies concerning licensing, taxation, distribution models, privatisation, or private participation inherently involve the exercise of executive discretion. The mere circumstance that a particular policy does not yield the expected outcomes, or that private participants lawfully earn profits under such policy, cannot, without more, justify criminal prosecution.

68. It is now well settled that economic and administrative decisions taken in good faith cannot be criminalised in the absence of clear prima facie material disclosing mala fides, quid pro quo, or abuse of office. Accordingly, while appreciating prosecution material at the stage of charge in policy-related matters, the Court must maintain a

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clear distinction between an allegation which is essentially a critique of policy wisdom or an administrative lapse, and an allegation supported by material indicating corruption or conspiracy.

69. To assess the limits of criminal liability in matters involving formulation of government policy, the Court must also bear in mind the internal architecture of governmental decision-making, which is regulated by the *Transaction of Business Rules, the Allocation Rules, and the Central Secretariat Manual of Office Procedure*. These instruments structure how proposals are initiated, how files move, how consultations are undertaken, and how decisions are recorded, thereby ensuring orderly governance, institutional discipline, and traceability of decision-making.

70. The **Transaction of Business of the Government of National Capital Territory of Delhi Rules, 1993 (ToBDR)**, prescribe the manner in which the business of the Government is to be transacted and identify matters requiring consideration at different institutional levels. This framework incorporates mandatory consultations, institutional checks, identification of matters requiring prior approval or submission, and structured movement of files through a prescribed hierarchy. These rules are intended to ensure orderly governance and collective responsibility. They are not penal provisions. A deviation from procedure may, at the highest, amount to an administrative lapse,

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but cannot, by itself, be treated as criminal misconduct unless accompanied by prima facie material indicating dishonest intent.

71. Similarly, the **Business of Delhi (Allocation) Rules, 1993,** distribute subjects across departments and identify the department competent to initiate and process a policy, as well as the authority responsible for approval. Where a policy is framed and processed by the competent department in accordance with these Rules, its initiation cannot be criminalised merely because it reflects a new, reform-oriented, or revenue-driven approach.

72. The **Central Secretariat Manual of Office Procedure (CSMOP)** governs file management and the mechanics of administration, including recording of notings, drafting of proposals, inter-departmental consultations, and preservation of records. Its purpose is to ensure transparency, uniformity, and traceability in governmental functioning. Non-compliance with administrative procedure, in the absence of material showing corrupt intent, does not by itself constitute a criminal offence.

73. From the standpoint of criminal liability, policy-formulation cases broadly fall into three categories. The ***first*** category relates to alleged violations of statutory rules or mandatory procedure. Criminal liability may arise only where the prosecution is able to prima facie demonstrate deliberate and conscious bypassing of mandatory procedural safeguards, actions taken by a department

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outside its competence, or suppression or manipulation of material notings or consultations. Even in such cases, a procedural deviation alone is insufficient; there must be material indicating dishonest intention.

74. The ***second*** category concerns cases of formal procedural compliance masking mala fide intent. There may be situations where the file movement appears regular, the competent department acts within its jurisdiction, and the prescribed procedural route is ostensibly followed. However, if the substance of the policy, viewed in light of the material placed on record, prima facie demonstrates that it was consciously designed to confer undue advantage upon specific private parties, criminal prosecution may be justified, provided such intent is supported by cogent and independent material, and not merely inferred from the outcome of the policy.

75. The ***third*** and most common category concerns bona fide policy decisions unaccompanied by evidence of corruption. This is where the prescribed procedure is followed, the competent department initiates and processes the proposal, file movement is transparent, and there is no prima facie indication of quid pro quo, personal benefit, or collusion. In such cases, the policy decision is protected as a bona fide exercise of administrative discretion. The wisdom, efficacy, or eventual success or failure of a policy is not a matter for criminal adjudication. Administrative errors or incorrect judgments, without

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material suggesting corrupt intent, cannot attract criminal prosecution.

76. Certain broader guardrails must also inform the Court's approach in policy-related prosecutions. Policy formulation is inherently experimental; a policy may succeed or fail, and failure by itself is not evidence of criminality. Profit earned by private participants is not illegal per se; it becomes suspect only when it is shown to flow from collusion, undue favour, or manipulation of process. The Transaction of Business Rules, Allocation Rules, and the Central Secretariat Manual of Office Procedure are mechanisms of accountability and institutional discipline; their purpose is to structure decision-making, not to convert administrative infractions into criminal misconduct. Above all, criminal liability continues to require mens rea. Excessive criminalisation of policy decisions risks paralysing governance, as decision-makers may be deterred from taking bona fide decisions in public interest.

(emphasis supplied)

77. Accordingly, where a policy is initiated by the department competent under the Allocation Rules, processed through the structured mechanism mandated by the Transaction of Business Rules, and reflects transparent file movement in accordance with the Central Secretariat Manual of Office Procedure, its framers, whether bureaucratic or political, cannot be subjected to criminal prosecution

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merely because the policy did not yield the expected results or because private entities lawfully earned profit under it. Criminal prosecution is justified only where the material discloses either a conscious and deliberate violation of mandatory procedure coupled with dishonest intent, or dishonest or collusive intent camouflaged behind formal procedural compliance. In the absence of these elements, the domain of policy-making remains a matter of governance, not criminal liability.

6. Bribe / upfront / kickback allegations: what must prima facie appear

78. Where the prosecution alleges that file movement and policy decision-making were influenced by bribes, upfront payments, or kickbacks, the Court must examine whether the prosecution material, even if accepted as true at this stage, discloses:

(i) a prima facie demand/arrangement/payment and its linkage to an official act;
(ii) a discernible quid pro quo;
(iii) a nexus between the alleged gratification and the policy clauses or file outcomes; and
(iv) material connecting the accused to such influence, beyond assumptions arising from the existence of file notings or the eventual policy outcome.

79. In such cases, file movement and policy documentation may provide context, but cannot substitute the requirement of prima facie material indicating corrupt intent. Absent such linkage, a

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prosecution founded largely on administrative record risks converting governance review into criminal adjudication.

7. Conspiracy in policy/economic cases: agreement is the core

80. The Court is conscious that criminal conspiracy is rarely proved by direct evidence and may be inferred from surrounding circumstances. However, the difficulty in proving conspiracy does not dilute the threshold even at this stage. The Court must assess whether the record discloses grave suspicion of a conscious agreement to commit an illegal act or to achieve a lawful object by illegal means, and not merely conjecture or suspicion.

81. This scrutiny assumes particular importance in prosecutions arising from policy formulation or regulatory reform. Policy outcomes often result from multi-tier institutional processes involving consultations, departmental inputs, Cabinet-level decisions, and statutory/constitutional oversight. Criminal law cannot be used to retrospectively criminalise policy choices or market consequences unless the prosecution is able to prima facie demonstrate a meeting of minds to subvert the policy framework for an unlawful purpose.

82. The gravamen of Section 120-B IPC lies in the agreement itself. Economic gain, uneven commercial outcomes, or subsequent profitability cannot, by themselves, constitute conspiracy. What must prima facie emerge is consensus ad idem: who agreed with

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whom, what illegal act or illegal means was agreed upon, when the agreement arose, and how subsequent acts were in furtherance of that agreement. Where the narrative rests on fragmented circumstances and invites the Court to *"join the dots"* by presumption, the legal threshold is not met.

83. Upon considering the material placed on record for the limited purpose of framing of charge, it is often seen that the prosecution seeks to project its case as a coherent and well-knitted narrative. While it may superficially appear so, a closer examination within the contours permitted at this stage may reveal that facts have been arranged to support a predetermined conclusion. The Court is required to guard against being carried by presentation alone, and must instead test whether the record discloses a consistent and legally sustainable sequence suggestive of the commission of an offence. Reliance is placed upon the judgment of Hon'ble Supreme Court in case titled as **Karnataka vs. L. Muniswamy and Ors. MANU/SC/0143/1977.**

84. Where the prosecution relies on circumstantial evidence, the alleged chain of circumstances must, even at this preliminary stage, appear prima facie continuous and legally coherent. When such material is tested against settled principles, the chain cannot be incomplete, fragile, or dependent upon conjectural inferences. Several

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links cannot rest on speculative extrapolations rather than established facts.

85. Where the prosecution substantially relies on circumstantial evidence, the settled principles governing circumstantial proof squarely applies. The law mandates that:

(i) the circumstances relied upon must be fully established;

(ii) they must be consistent only with the guilt of the accused;

(iii) they must exclude every reasonable hypothesis of innocence; and
(iv) the chain must be so complete as to leave no reasonable ground for a conclusion consistent with innocence.

86. If the record falls significantly short and does not even give rise to credible suspicion, the criminal process cannot be permitted to continue merely to see whether something may emerge at trial. Meetings, communications, and tower-location indicators, often relied upon in such cases, are frequently neutral in policy contexts. Meetings between stakeholders and officials may be consistent with consultation and governance. Tower-location/CDR indicators, even when admissible, indicate approximate presence and do not establish the purpose or content of interaction. They cannot be used as substitutes for evidence of agreement, nor can they be employed to bridge substantive gaps in the alleged conspiratorial chain.

87. The proposition that conspiracies are *"hatched in secrecy"* cannot be stretched to justify dilution of standards in policy-

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related prosecutions where the process is typically documented and traceable. To allege a secret unlawful agreement within such a framework, the prosecution must prima facie show how institutional procedure was subverted pursuant to a prior meeting of minds. Otherwise, secrecy remains a rhetorical explanation rather than a legally sustainable inference.

88. Tested on this anvil, the prosecution material, at the threshold stage, must prima facie disclose:

(i) the identity of the alleged conspirators inter se, namely, who agreed with whom;

(ii) the content of the alleged agreement, namely, what precise illegal act or illegal means was agreed upon;

(iii) the temporal and causal linkage, namely, when such agreement was formed and how subsequent acts were in furtherance thereof; and

(iv) the exclusion of innocent hypotheses, namely, how the circumstances relied upon are incompatible with lawful, neutral, or institutional explanations.

89. In the absence of these foundational elements, the allegation of conspiracy remains indeterminate and amorphous, lacking the legal specificity required even at the threshold stage.

8. Scrutiny of statements and documents

90. Ultimately, at the stage of charge, the Court's role is neither to conduct a trial nor to accept the prosecution narrative as

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gospel truth. Justice at this stage is achieved by a disciplined scrutiny of the statements and documents relied upon by the prosecution, to see whether, if accepted as they stand, they disclose the ingredients of the alleged offences and raise grave suspicion warranting trial.

91. Where the record consists predominantly of file notings, administrative observations, policy papers, and subsequent commercial outcomes, with allegations of bribe, upfront money, kickbacks, and conspiracy superimposed upon such material, the Court needs to be careful to identify whether the prosecution has placed independent incriminating material linking the accused to corrupt intent and unlawful agreement, as distinct from a critique of governance or a disagreement with policy choices. If the material discloses only a possible suspicion, and not grave suspicion, the law empowers the Court to discharge; if it discloses grave suspicion grounded in material capable of becoming evidence, charge may follow.

(B) Nature of Witness Statements and the Manner of Their Appreciation at the Stage of Charge

92. At the stage of consideration of charge, the Court is required to examine whether the prosecution material, if taken at its face value, discloses prima facie suspicion against the accused as would justify putting them to trial. For this limited purpose, the Court must first identify the nature of the statements relied upon, because the

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evidentiary character of each category is not identical, and the degree of reliance that can be placed at this stage depends upon that character.

93. On a careful assessment of the record, it is apparent that the prosecution material broadly comprises three types of statements, each requiring separate appreciation:

First, there are statements of general witnesses, i.e., witnesses who claim awareness of facts relevant to the case but who are not themselves participants in the alleged offence. Their statements are to be examined in the ordinary course as prosecution evidence, keeping in view the limitations of scrutiny at this stage.

Second, there are statements of pardoned accused persons, commonly referred to as approver statement. Such statement, as emerging from the record, appears in three sub-forms: (i) **Pre pardon confessional statement**-the confessional statement recorded under Section 164 of Cr.P.C., wherein the witness, before the Judicial Magistrate, discloses his own involvement and also implicates co-accused; (ii) **Post pardon confessional statement**-the confessional statement recorded under section 306 (4) of Cr.P.C. during investigation and after grant of pardon and (iii) other statements of similar narrative recorded before or after the grant of pardon under Section 161 of Cr.P.C. during investigation.

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Third, there are statements of those witnesses who, while not shown as accused and not granted pardon, nevertheless make statements which are incriminating both to themselves and to the accused persons. Such witnesses occupy a distinct position, because they are not treated by the prosecution as accused, yet their versions disclose self-incriminating participation, and their statement must therefore be appreciated with due caution.

94. The Court finds it necessary to analyse the evidentiary worth of the above categories in order to answer the central question: whether the prosecution has been able to cross the threshold of prima facie case for the purpose of framing of charge.

1. Statement of the Approver

(a) Confession Recorded Under Section 306 (4) of Cr.P.C. in terms of Section 164 of Cr.P.C. of an accused who has been granted pardon

95. At the stage of consideration of charge, where the prosecution places predominant reliance upon the statement of approvers, the Court is required to assess such material within a clearly settled statutory and jurisprudential framework. The issue is not confined to admissibility alone, but extends to the sufficiency and probative worth of such statement at the threshold stage. The central enquiry, therefore, is how the evidence of an *approver* is to be evaluated at the stage of framing of charge, and whether such

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statement, standing by itself, is capable of sustaining the continuation of criminal proceedings against an accused. The answer necessarily lies in a correct appreciation of the concept of an accomplice or *particeps criminis*, read alongside the provisions of the Indian Evidence Act, 1872, the Cr.P.C., 1973, and the Delhi High Court Rules and Orders.

96. The expression *"accomplice"* or particeps criminis is a well-recognised concept in criminal jurisprudence and comprehends all persons who consciously participate in the commission of an offence, irrespective of the degree, nature, or mode of such participation. Participation may take the form of principal offending, abetment, conspiracy, or assistance before or after the fact. Though the Indian Evidence Act does not define the term *"accomplice"*, judicial interpretation has consistently held that any person knowingly and voluntarily associated with the commission of the offence falls within its sweep.

97. Where such persons are prosecuted together, they assume the procedural status of co-accused and may be tried jointly in terms of Section 223 of the Cr.P.C, 1973. This procedural description, however, does not dilute or alter the substantive character of their involvement. In essence and in law, they continue to remain accomplices whose association with the crime is either admitted or alleged.

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98. A material procedural shift occurs when one such co-accused is tendered pardon under Section 306 of Cr.P.C. Upon acceptance of pardon and subject to the statutory obligation of making a full and true disclosure, such person ceases to be an accused for the purposes of trial and is examined as a prosecution witness, commonly described as an approver or government approver. From that stage onwards, he is removed from the array of accused persons and enjoys immunity from prosecution so long as the pardon remains operative.

99. This procedural transformation, however, does not efface or neutralise the substantive character of the approver as an accomplice. The grant of pardon itself proceeds on the admitted participation of the approver in the offence. The change is confined to his position in the trial process and does not elevate his statement to that of an independent or untainted witness. It is well settled that an approver is merely an accomplice who has been granted conditional immunity, and his statement must, therefore, be approached with circumspection.

(emphasis supplied)

100. Judicial exposition has also recognised that participation in crime may occur in different forms. An accomplice broadly classified as principals in the first degree, principals in the second degree, accessories before the fact, and accessories after the fact, each category reflecting a distinct mode of conscious association with the

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criminal act. This classification only reinforces the breadth of the concept and the reason why accomplice evidence has traditionally been viewed with caution.

101. Against this settled legal backdrop, the Court, at the stage of framing of charge, is required to examine whether the material placed on record discloses a prima facie case giving rise to grave suspicion against the accused. While the standard at this stage is not that of proof beyond reasonable doubt, it is equally settled that the Court is not to function as a mere post office for the prosecution. A real, though limited, application of judicial mind is required to determine whether the material rises above conjecture or mere suspicion.

102. Where the prosecution case rests substantially, or indeed exclusively, on the statement of an approver, this duty of scrutiny assumes greater significance. An approver is a witness who has admittedly bargained for pardon and immunity from prosecution. His statement is, therefore, inherently self-interested. If the incriminating material consists solely of the uncorroborated statement of such a witness, it cannot ordinarily be regarded as sufficient to justify the framing of charge. To hold otherwise would be to accept that a single statement of a tainted witness, motivated by the prospect of immunity, is adequate to subject an accused to the rigours of a full criminal trial.

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(emphasis supplied)

103. The position in law at this stage is well settled. If two views are reasonably possible on the material before the Court, and the view favourable to the accused gives rise only to suspicion and not to grave suspicion, the accused is entitled to discharge. An uncorroborated approver's statement, unsupported by independent material on material particulars, ordinarily remains within the realm of mere suspicion. It assumes the character of grave suspicion only when reinforced by credible, independent evidence tending to connect the accused with the offence.

(emphasis supplied)

104. The Supreme Court, in **Ravinder Singh v. State of Haryana (1975) 3 SCC 742,** characterised an approver as *"a most unworthy friend, if at all"*, and emphasised that a witness who has bargained for immunity must affirmatively establish his credibility. The Court laid down a two-fold test for appreciation of approver evidence: *first,* the approver's narrative must implicate himself and present a natural, coherent, and probable account of events; *secondly*, once this threshold is crossed, his statement insofar as it implicates others must inspire reasonable assurance of guilt. While recognising that, in rare cases, a conviction may rest on uncorroborated approver statement if it is found wholly reliable, the ordinary and salutary rule

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remains that such statement must be corroborated in material particulars.

105. This approach reflects long-standing judicial experience. Accomplice evidence has consistently been regarded as inherently unsafe. An accomplice is a particeps criminis, a witness tainted by his own involvement in the offence and burdened by an ongoing incentive to minimise his own role, exaggerate the role of others, or mould his narrative to suit the prosecution in the hope of securing or retaining the benefit of pardon. This structural unreliability is grounded in the practical realities of criminal prosecution.

106. Illustration (b) to Section 114 of the Indian Evidence Act embodies this accumulated judicial wisdom by recognising that an accomplice is ordinarily unworthy of credit unless corroborated in material particulars. Though Section 133 of the Evidence Act declares that a conviction founded on uncorroborated accomplice statement is not illegal, Illustration (b) to Section 114 governs the manner in which such evidence is to be appreciated. The Supreme Court, in **Bhiva Doulu Patil v. State of Maharashtra (AIR 1963 SC 599),** reconciled these provisions by holding that while Section 133 lays down a rule of law, Section 114(b) embodies a rule of prudence which courts are bound to observe in practice. Corroboration, therefore, is not a matter of indulgence but a practical necessity.

(emphasis supplied)

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107. It is equally well settled that, in the absence of independently established foundational facts, the statement of an approver cannot, by its own force, assume the status of legally sustainable incriminating material. An approver's statement is not substantive evidence in the ordinary sense; it is evidence of a tainted character, received on the premise that the prosecution has first laid a factual foundation demonstrating the existence of the alleged crime. Where such foundational facts are absent, the approver's statement does not fill the evidentiary vacuum; it merely exposes it.

(emphasis supplied)

108. This principle assumes particular importance in complex economic or policy-related prosecutions involving multiple alleged components, such as manipulation of policy, payment of illegal gratification, generation and laundering of proceeds of crime, and utilisation of such proceeds. Each allegation constitutes a distinct factual assertion requiring independent substantiation through objective material, including contemporaneous official records, statutory documents, financial trails, or statement of untainted witnesses. In the absence of such primary material, the approver's version remains a narrative superstructure unsupported by a factual base. Law does not permit the superstructure to substitute the foundation.

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109. An approver may corroborate facts otherwise proved; he cannot be the source from which the very existence of those facts is presumed. If alleged policy manipulation is not borne out from official records, if no contemporaneous material evidences the demand, quantification, payment, or receipt of illegal gratification, or if financial transactions stand explained by documentary commercial records, an approver's ipse dixit cannot displace objective evidence. The same principle applies with equal force to allegations of money laundering and political utilisation of funds, where the existence of proceeds of crime and a demonstrable money trail are foundational requirements.

(emphasis supplied)

110. The infirmity is further aggravated by the admitted position that the approver is himself a participant in the alleged offence and stands to gain personal liberty by turning approver. His statement is therefore inherently self-serving. Where the prosecution has failed to first establish the corpus of the alleged crime, the approver's statement degenerates into a narrative aimed at deflecting personal culpability.

111. Permitting an uncorroborated approver's statement to substitute for foundational facts would invert settled principles of criminal jurisprudence. It would legitimise a process where arrest precedes proof, narrative precedes evidence, and facts are sought to be

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moulded to fit a confession. Criminal law does not countenance such an approach. The existence of the offence, the participation of the accused, and the requisite mens rea must be demonstrated through objective material before the Court can legitimately form even a prima facie view.

112. Viewed thus, the statement of an approver, standing alone and unsupported by independent corroboration, does not ordinarily disclose legally sustainable incriminating material at the stage of charge. At best, it gives rise to suspicion; it does not generate grave suspicion. To treat such statement as sufficient even at the threshold would be to substitute sufficient ground to proceed with narrative convenience, an approach wholly alien to criminal jurisprudence and destructive of the rule of law.

(b) Statements Recorded Under Section 161 of Cr.P.C. of an approver after grant of pardon and its evidentiary value:

113. The Court observes that, in the instant matter, notwithstanding the recording of the confessional statement of the approver under Section 164 of the Cr.P.C. before the Ld. Judicial Magistrate, and subsequent to the recording of the approver's statement under Section 306(4) of the CrPC following the grant of pardon, the investigating agency has proceeded to record multiple supplementary statements of the same approver under Section 161 of the CrPC. This gives rise to an important issue for the purpose of

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evidentiary appreciation at the stage of charge: how are such Section 161 statements to be classified, and what weight can they carry?

114. To answer this, the Court considers the legal position by applying a simple test: what would have been the evidentiary position if the person had not been granted pardon at all?

115. If the person had not been granted pardon, he would have remained a co-accused and faced trial. In such a situation: (i) *his confession would have been treated only as a confession of a co-accused within the limited scope of Section 30 of the Evidence Act; and (ii) any confession or incriminating statement made to police, or in police custody, would attract the bar under Sections 25 and 26 of the Evidence Act, rendering such confession inadmissible, except to the limited extent permitted by law.*

116. The Court notes that the evidentiary value of a co-accused confession is inherently weak. Such confession is not substantive evidence and does not even fall within the ordinary definition of *"evidence"* in the manner in which statement of a witness does. It can be used only in a limited way: where there is independent evidence against the accused which, if believed, is sufficient to support conviction, then the confession of the co-accused may be used only as an additional circumstance and not as the foundation.

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117. It is for this reason that it is well settled that a charge cannot be framed solely on the confession of a co-accused, since such confession is not the kind of evidence which can, by itself, create grave suspicion. The same logic applies to confessional statements recorded by police in custody. Such statements are inadmissible in law, and the inadmissibility does not depend on what status the maker later acquires. The inadmissibility flows from the source and manner of recording. Therefore, what was inadmissible or legally weak when the maker was a co-accused cannot be elevated into stronger incriminating material merely because later he is tendered pardon. Reliance is placed upon the judgment of Hon'ble Supreme Court in case titled as **Suresh Budharmal Kalani vs. State of Maharashtra, (1998) 7 SCC 337.**

118. This is precisely why the law contemplates that pardon is tendered on the basis of a disclosure under Section 164 of CrPC, and not on the basis of a police statement under Section 161 of CrPC. The Court, therefore, observes, confined strictly to statements recorded under Section 161 of CrPC, that what was not admissible or reliable as confessional material earlier cannot become admissible or reliable merely due to the grant of pardon.

(emphasis supplied)

119. Accordingly, the Court holds that the statements of an approver recorded under Section 161 of CrPC, insofar as they contain self-incriminating or co-accused-incriminating confessional

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assertions, cannot be automatically treated at par with the approver's judicial disclosure. Even if the Court were to look at them, their evidentiary worth would remain closer to the limited value attached to co-accused confession-type material and cannot be elevated to the same plane as approver statement in its proper form.

120. The Court further notes that if, after pardon, the approver is again examined before a Magistrate under Section 164 of CrPC, then such statement may fall within the category of approver disclosure having a distinct footing. This distinction is material because approver statement, when properly recorded and later tested, carries a higher evidentiary value than a mere police statement.

121. Recently, the Hon'ble Supreme Court has crystallised the legal position governing the evidentiary value of statements recorded under Section 161 of the Cr.P.C., the treatment of inculpatory and exculpatory statements attributed to an accused, and the confession of a co-accused, in the case titled **P. Krishna Mohan Reddy v. State of Andhra Pradesh**, **2025 SCC OnLine SC 1157,** and has observed that:-

> *"53…. From the above exposition of law, the following emerges:—*
>
> *(i) A person who is accused of an offence or named in the first information report, can be examined by the police and his statement may be recorded under Section 161 of the Cr. P.C., as held in Nandini Satpathy (supra).*

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(ii) A statement of an accused under Section 161 of the Cr. P.C., would ordinarily be of two kinds, it may be inculpatory in nature or may be exculpatory in nature.

(iii) An inculpatory statement again may be in the form of an admission or a confession. If such statement admits either a gravely incriminating fact or substantially all the facts which constitute the offence, respectively, as held in Pakala Narayana Swami (supra), then it amounts to confession.

(iv) Where such police statement of an accused is confessional statement, the rigour of Section(s) 25 and 26 respectively will apply with all its vigour. A confessional statement of an accused will only be admissible if it is not hit by Section(s) 24 or 25 respectively and is in tune with the provisions of Section(s) 26, 28 and 29 of the Evidence Act respectively. In other words, a police statement of an accused which is in the form of a confession is per se inadmissible and no reliance whatsoever can be placed on such statements either at the stage of bail or during trial. Since such confessional statements are rendered inadmissible by virtue of Section 25 of the Evidence Act, the provision of Section 30 would be of no avail, and no reliance can be placed on such confessional statement of an accused to implicate another co-accused.

(v) A confessional statement of one accused implicating another co-accused may be taken into consideration by the court against such co-accused in terms of Section 30 of the Evidence Act, only at the stage of trial, where (1) the confession itself was relevant and admissible in terms of the Evidence Act; (2) was duly proved against the maker; (3) such confessional statement incriminates the maker along with the co-accused and; (4) both the accused persons in question are in a joint trial for the same offence.

(vi) Furthermore, because such confessional statements are not "evidence" in terms of Section 3 of the Evidence Act as held in Bhuboni Sahu (supra), such a confession as held in Kashmira Singh (supra) can only be pressed into consideration by the court as a rule of prudence, to lend assurance to the other evidence against such co-accused, provided that aforesaid ingredients or conditions of Section

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30 read with Section(s) 24 to 29 of the Evidence Act, are fulfilled.

(vii) Where the police statement of an accused is in the form of an admission, such inculpatory statement even if it implicates another co-accused cannot be taken into consideration against such co-accused in terms of Section(s) 17 read with 21 of the Evidence Act, as doing so would militate against the general principle, that an admission may be given as evidence against the maker alone. The exceptions to the aforesaid general principle carved out under the Evidence Act, do not permit the usage of such admission against a co-accused in any scenario whatsoever.

(viii) Where the police statement of the accused is an exculpatory statement i.e., it is neither a confession nor an admission, the statement being one under Section 161, would immediately attract the bar under Section 162 of the Cr. P.C., and the same may be used only for the very limited purpose provided in the Proviso for the purpose of contradiction or re-examination of such accused person alone, as held in Mahabir Mandal (supra). Even if such exculpatory statement of one accused, implicates another co-accused, the same cannot be taken into consideration against such co-accused, as there can be no credibility attached to an exculpatory statement of an accused implicating another co-accused, more particularly because it is neither required to be given on oath, nor in the presence of the co-accused, the same cannot be tested by cross-examination and the exculpatory nature of such statement militates against the foundational principle that permits taking into consideration a statement of one accused person against another co-accused as explained in Bhuboni Sahu (supra), i.e., 'when a person admits guilt to its fullest extent either to a certain incriminating fact or substantially all the facts which constitute the offence, and in doing so exposes himself and in the process other co-accused persons to the pain and penalties provided for the guilt, there exists a sincerity and semblance of sanction for the truthfulness of such statement….".

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122. At this stage, it becomes necessary for the Court to clearly understand and delineate the legal distinction between a *"confession"* and an *"admission"*, particularly in the context of statements of an accused recorded by the police under Section 161 of the Cr.P.C.

123. A confession is a statement by an accused which amounts to an admission of the offence itself, or at least of substantially all the facts which constitute the offence. In other words, a confession is a direct acknowledgment of guilt. An admission, on the other hand, stands on a different footing. An admission does not amount to acceptance of guilt for the offence as a whole, but relates only to the acknowledgment of one or more gravely incriminating facts which may form part of the prosecution case. This distinction has been judicially recognised, including in **Pakala Narayana Swami v. Emperor, (1939) PC 47,** where it was emphasised that every incriminating statement is not a confession.

124. The legal consequences flowing from this distinction are significant. It is well settled that even a confession made by one accused cannot be used against a co-accused, except within the limited scope of Section 30 of the Indian Evidence Act, and that too only if the strict conditions prescribed therein are satisfied.

125. As a natural corollary, any statement made by an accused under Section 161 of Cr.P.C. which merely amounts to an

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admission, that is, an acknowledgment of an incriminating fact or a statement implicating another person, would be governed by Section 17 of the Evidence Act, read with the settled prohibition on the use of admissions against third parties. Such an admission is relevant, if at all, only against its maker, and even then subject to the statutory limitations governing police-recorded statements.

126. It is trite law that an admission made by one accused cannot be used as evidence against another co-accused. The law does not permit the prosecution to rely upon statements of an accused, recorded by the police under Section 161 of Cr.P.C., to implicate a co-accused. Such statements are not substantive evidence and are hit by the well-established restrictions contained in the Evidence Act.

127. Therefore, any statement of an accused recorded under Section 161 of Cr.P.C., insofar as it seeks to implicate a co-accused, whether by way of confession or by way of admission, cannot be looked into by the Court against such co-accused. To permit otherwise would amount to indirectly doing what the law expressly prohibits, namely, using police-recorded statements of one accused as evidence against another.

128. It thus follows that any statement of an approver recorded under Section 161 of Cr.P.C. is rendered inadmissible by operation of Section 25 of the Indian Evidence Act, for the reason that a confessional statement, if at all, can be validly recorded only under

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Section 164 of Cr.P.C. by a Judicial Magistrate. The prosecution appears to proceed on the assumption that, upon tender of pardon, the approver is transmuted into an independent witness. Such an assumption is fundamentally flawed and untenable in law for the purpose of determine evidentiary value of such statement.

129. In the first place, the statement of an approver is never assessed on the same footing as that of a general witness; it is scrutinised with circumspection, having regard to his admitted participation in the offence and the settled statutory and judicial safeguards governing approver evidence. In the second place, the status of an approver is itself conditional and precarious. Any infraction of the terms on which pardon is tendered exposes him to forfeiture of that status, rendering him liable to be tried once again as an accused. The taint of participation, therefore, continues to attach and cannot be wished away.

130. The statutory scheme under Sections 306 and 308 of Cr.P.C casts a clear and substantive obligation upon the prosecution to ensure that an accused, upon being tendered pardon, *"makes a full and true disclosure of the whole of the circumstances within his knowledge relative to the offence and to every other person concerned, whether as principal or abettor.* "This condition cannot be treated as a mere formality, as it is intended to ensure that the approver is mandatorily required: (i) to make a full and true disclosure; (ii) of the

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whole of the circumstances within his knowledge; (iii) relative to the offence; and (iv) concerning every other person involved, whether as principal or abettor. These are the conditions subject to which pardon is tendered to the approver. Where, after the recording of the statement under Section 306(4) of Cr.P.C on this condition, the investigating agency proceeds to record further supplementary statements of the same approver under Section 161 of Cr.P.C., a serious issue arises as to compliance with the foundational requirement of full and true disclosure. If the material on record were to indicate otherwise, the statutory course available to the prosecution was to consider recourse to Section 308 of Cr.P.C for withdrawal of tender of pardon. The decision instead to record multiple subsequent supplementary statements under Section 161 of Cr.P.C. is, on the face of the record, a matter warranting close judicial scrutiny.

131. That being so, this Court is unambiguous in holding that any statement of an approver recorded under Section 161 of Cr.P.C. after tender of pardon cannot be treated as substantive material, even for the purposes of consideration of charge. **However, in order to test the prosecution case at its highest, and while extending the maximum latitude permissible at this preliminary stage, the Court deems it appropriate to examine such statements only as the version of an accomplice. This limited exercise is undertaken solely to assess whether, even on such an indulgent footing, the material on record**

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crosses the legally mandated threshold for framing of charge. If the prosecution case fails to meet that standard even on this premise, it necessarily follows that no case for charge is made out.

132. This discussion is necessitated by the heavy reliance placed by the prosecution on the supplementary statements of the approver recorded by the investigating agency under Section 161 of Cr.P.C., both prior and subsequent to the recording of his confessional statement under Section 164 of Cr.P.C. (pre pardon). and his confessional statement under Section 306(4) of CrPC (post pardon). The general foundational principles governing the evidentiary value of such statements have been set out hereinabove. Their specific inconsistencies, infirmities, and probative limitations shall be examined at the appropriate stage while considering those statements in detail.

2. Statement of a Witness Making Incriminating Assertions Against Himself as well as against the accused persons in a Statement recorded under Section 161 of Cr.P.C.

133. The issue that arises for consideration concerns the evidentiary value of a witness who is alleged to have participated in the crime, yet has neither been arrayed as an accused nor tendered as an approver, but has instead been examined as a prosecution witness. The question is whether such a witness can be treated at par with an ordinary witness who merely deposes to facts within his knowledge,

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or whether his statement stands on a distinct and legally circumscribed footing.

134. This question assumes particular significance at the stage of framing of charge, where the Court is required to assess whether the material on record crosses the minimum threshold necessary to proceed against the accused. The complexity arises because the witness, examined under Section 161 of Cr.P.C., makes statements which are incriminating not only against the accused persons facing prosecution but also against himself.

135. Recently, the Hon'ble Supreme Court, in **Criminal Appeal No. 454 of 2015 (arising out of SLP (Criminal) No. 9928 of 2014)**, **R. Dineshkumar @ Deena v. State,** has categorically held, while referring to the judgments in **Laxmipat Choraria and ors. vs. State of Maharashtra, 1968 SCR (2) 624 and A.R. Antulay vs. R.S. Nayak & another (1988) 2 SCC 602,** that the prosecution is at liberty to examine one of the participants in the offence as a witness. However, the statement of such a witness is required to be assessed with the caution applicable to accomplice evidence. In other words, such statement is to be treated as being in the nature of accomplice evidence and cannot be accepted at face value without appropriate corroboration. The relevant extract is reproduced below for ready reference without any alteration: (emphasis supplied)

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"54…. We have already taken note of the relevant facts and the decision of this Court in Choraria case. The relevant facts of A.R. Antulay case are as follows. Before the 'trial Court' it was contended by Antulay that the examination of some of his alleged co-conspirators as witnesses and proposal to examine some more of them is legally not tenable and they must be arrayed as accused. Such a contention was negated by the trial Judge. Aggrieved by the same, Antulay carried the matter in appeal to this Court. Unfortunately, the majority judgment did not consider this aspect. It is only Justice Venkatachaliah, as His Lordship then was, who in his dissenting judgment considered this aspect and held as follows:

'133. ……. An accused person cannot assert any right to a joint trial with his co-accused. Normally it is the right of the prosecution to decide whom it prosecutes. It can decline to array a person as a co-accused and, instead, examine him as a witness for the prosecution. What weight is to be attached to that evidence, as it may smack of the statement of a guilty partner in crime, is a different matter. Prosecution can enter nolle prosequi against any accused person. It can seek to withdraw a charge against an accused person. These propositions are too well settled to require any further elaboration. Suffice it to say that the matter is concluded by the pronouncement of this Court in Laxmipat Choraria v. State of Maharashtra : 1968 Cri LJ 1124 where Hidayatullah, J. referred to the argument that the accomplice, a certain Ethyl Wong in that case, had also to be arrayed as an accused and repelled it, observing:

Mr. Jethmalani's argument that the Magistrate should have promptly put her in the dock because of her incriminating answers overlooks Section 132 (proviso).

…The prosecution was not bound to prosecute her, if they thought that her evidence was necessary to break a smugglers' ring. Ethyl Wong was protected by Section 132 (proviso) of the Indian Evidence Act even if she gave evidence incriminating herself. She was a ***competent witness although her evidence could only be received with the caution necessary in all accomplice evidence.***

134. On this point, really, the appellant cannot be heard to complain. Of the so-called co-conspirators, some have been examined already as prosecution witnesses; some others are proposed to be so examined; and two others, it would appear, had died in the interregnum. The appeal on the point has no substance and would require to be dismissed. We must now turn to the larger issue raised in the appeal.'

55. In the light of the above two decisions, the proposition whether the prosecution has a liberty to examine any person as a witness in a criminal prosecution notwithstanding that there is some material available to the prosecuting agency to indicate that such a person is also involved in the commission of the crime for which the other accused are being tried requires a deeper examination…".

(emphasis supplied)

136. The Hon'ble Supreme Court has recognised that the prosecution is not denuded of its liberty to examine such a participis criminis as a witness, even where some material exists to indicate his involvement in the offence. **However, the law equally mandates that the evidence of such a witness cannot be placed on the same pedestal as that of a neutral or independent witness. The statement of such a witness can only be received with the caution applicable to accomplice evidence.**

137. The expression *"all accomplice evidence"* is of particular significance. The concept of an accomplice is not confined only to an approver but extends to any participant in the crime whose statement implicates himself. This includes, in principle, statements analogous to confessions of co-accused or approvers, though the evidentiary

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treatment accorded to each category differs, as explained in the preceding discussion. The distinction is material, since the probative value and the degree of corroboration required vary depending on the precise legal character of the statement relied upon.

138. The jurisprudential basis for treating the statement of a witness who incriminates himself while also implicating other accused persons as accomplice evidence lies in the inherent nature of such statement, and not merely in the nomenclature assigned by the investigating agency. The mere circumstance that the prosecution has chosen to treat such a person as a *"general witness"* does not, in law, efface the taint arising from his admitted participation in the alleged offence.

(emphasis supplied)

139. **Where a witness acknowledges his own involvement in the commission of the crime, his statement is inevitably coloured by self-interest. In such a situation, the incentive to align with the prosecution case is, if anything, stronger than that of a formal approver. An approver, though tendered pardon, is required to undergo a statutorily prescribed and judicially supervised process under the Cr.P.C., and remains exposed to the risk of forfeiture of pardon upon any deviation from full and truthful disclosure. In contrast, a self-confessed participant who is extended the benefit of being examined as a regular witness, and is thereby insulated from prosecution without**

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undergoing the rigours of the pardon procedure, enjoys complete immunity without corresponding safeguards.

(emphasis supplied)

140. It would be wholly unrealistic to presume that a person who has admittedly participated in the offence would not avail such an opportunity to secure his own protection by supporting the prosecution narrative. The motivation to testify in a manner favourable to the prosecution, in order to avoid penal consequences, is thus manifest and cannot be ignored. The credibility of such a witness is, therefore, inherently suspect and stands on no higher footing than that of an accomplice.

141. Consequently, settled principles of criminal jurisprudence mandate that the statement of such a witness must be approached with the same degree of circumspection as accomplice evidence. It is well-established that an accomplice is a witness unworthy of implicit reliance, and his statement cannot be acted upon unless it is independently corroborated on material particulars connecting the accused with the crime.

142. This principle assumes particular significance in the present case, where the prosecution rests substantially upon the statements of a large number of witnesses who have, on their own showing, admitted participation in the alleged offence. To accept such

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statement at face value, without insisting upon independent corroboration on material particulars, would be to dilute well-settled safeguards evolved to prevent miscarriage of justice. The Court is, therefore, duty-bound to subject such evidence to heightened scrutiny and to apply the settled rule of corroboration with full rigour.

143. The above legal position thus governs the appreciation of statements under Section 161 of Cr.P.C. made by witnesses who are themselves implicated in the offence, particularly at the stage of consideration of charge.

(3) Accomplice, Accomplice-like Witness and Approver- Comparative and Inter Se Analysis of Evidentiary Value.

144. The position of law governing accomplice and accomplice-like statement stands settled by authoritative pronouncements of the Hon'ble Supreme Court. In ***Laxmipat Choraria (supra)*** and ***A.R. Antulay (supra)***, it has been recognised that a witness who incriminates himself and other accused persons, though not formally tendered pardon as an approver, remains a competent witness. However, such evidence is required to be scrutinised with the same caution as that of an accomplice. The consequence is that, while admissible, it must receive independent corroboration on material particulars, in the same manner as approver statement.

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145. In that background, the issues fall for consideration in the form of the following queries:

(a) Whether accomplice-like statement can be treated as *"independent corroboration"* of the approver on material particulars?

146. The corroboration required for approver evidence must be independent in character and must connect the accused with the commission of the offence in material particulars. Such corroboration cannot proceed from a source equally tainted or similarly interested. Where a witness himself stands in the position of an accomplice or accomplice-like participant, being exposed to criminal liability in the same transaction, his statement carries the same infirmity. As a rule of prudence, therefore, accomplice-like statement cannot constitute independent corroboration of an approver. Evidence emanating from a tainted source does not acquire independence merely because it supports another tainted witness.

(b) Whether accomplice-like statement can corroborate another accomplice-like statement and thereby lend credibility to the approver?

147. If two witnesses are participants in, or complicit with, the same transaction, both stand on an identical evidentiary footing. The infirmity attaching to one equally attaches to the other. It is well settled that one accomplice cannot corroborate another within the

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meaning of Illustration (b) to Section 114 of the Evidence Act. Mere repetition of a version by similarly placed witnesses does not transform suspicion into reliability; it only reproduces evidence of the same quality. Consequently, accomplice-like statement cannot be relied upon to bolster another accomplice-like statement so as to furnish the independent assurance required for acting upon approver evidence.

(c) Whether the statement of one approver can be used to corroborate the statement of another approver ?

148. It has been consistently held that the statement of one approver is not sufficient corroboration of another. The doctrinal basis is that corroboration must come from an independent source. An approver is, by definition, a tainted source. Corroborative evidence must (i) be independent of accomplice evidence, (ii) connect the accused with the offence, (iii) relate to material particulars, and (iv) provide assurance of the truthfulness of the accomplice regarding the participation of the accused. Evidence of another accomplice does not satisfy these requirements, as it lacks the essential element of independence.

149. The position stands settled in **K. Hashim v. State of T.N., (2005) 1 SCC 237**, subsequently followed by the Bench of three Judges of the Hon'ble Supreme Court in **Somasundaram alias Somu v. State, (2020) 7 SCC 722**, wherein it was observed that corroboration

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must come from independent sources and ordinarily the statement of one accomplice would not suffice to corroborate that of another. Though in exceptional circumstances a conviction so based may not be illegal, the rule of prudence requiring independent assurance remains unaffected.

150. The significance of the aforesaid principles assumes particular importance at the stage of determination of charge in the present case, where the prosecution relies upon statements of approvers as well as witnesses who are themselves alleged participants in the transaction. It is well settled that the confession of a co-accused cannot be the sole basis for framing of charge, as held by the Hon'ble Supreme Court in **Suresh Budharmal Kalani (supra)**. Where the material consists predominantly of approver statements and accomplice-like statement, the Court is required to examine whether there exists independent material connecting the accused with the alleged offence. At the stage of charge, the prosecution must cross the threshold of grave suspicion; if two views are reasonably possible on the material placed on record. In the absence of independent corroboration on material particulars, reliance upon mutually reinforcing tainted statement would not satisfy the standard required even for proceeding to trial.

C. Rationale for Close Judicial Examination of Witness Statements in a Policy-Driven Conspiracy Case

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151. From the very outset, it becomes necessary to delineate why this Court is required to closely examine the statements of witnesses relied upon by the prosecution. The nature of the case itself makes such scrutiny unavoidable, as the prosecution narrative is founded substantially on the statement of approvers rather than on direct, self-proving documentary or physical evidence of statements of witnesses recorded during the course of investigation.

152. The prosecution case, as projected, rests predominantly on oral versions to establish serious allegations relating to manipulation of a public policy, demand and payment of alleged up-front illegal gratification and their subsequent laundering. These allegations are sought to be supported by a set of circumstances which, according to the prosecution, point towards the existence of a criminal conspiracy. Such circumstances are neither self-evident nor self-proving and, by their very nature, invite close judicial scrutiny even at the threshold.

153. The prosecution further seeks to draw a chain of circumstances from the evolution of the excise framework by juxtaposing clauses of the earlier excise policy with provisions introduced under the DEP-21/22, and to project these changes as tailor-made to benefit select private parties. In doing so, the case enters a technically complex domain involving regulatory provisions, licensing conditions, and structural changes in the excise regime. The

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allegations also span a wide commercial canvas, implicating a large number of entities operating at different levels of the excise supply chain, manufacturers, wholesalers and retail licensees, whose respective roles and inter se relationships form an integral part of the prosecution narrative.

154. At the stage of consideration of charge, the Court is not expected to undertake a roving or exhaustive enquiry into these matters, nor to adjudicate upon the correctness of the prosecution's inferences. At the same time, the Court cannot be reduced to a passive recipient of the prosecution version. The settled position of law mandates that the Court must apply its judicial mind to the material placed on record and examine whether the circumstances relied upon, taken cumulatively and at their face value, disclose the essential ingredients of the alleged offences and give rise to a grave suspicion, as opposed to a mere suspicion founded on conjecture or hindsight analysis.

(emphasis supplied)

155. Where the prosecution alleges a complex conspiracy involving policy formulation, alleged clandestine monetary flows, and multi-layered commercial transactions across numerous entities, the Court is necessarily required to test whether the circumstances relied upon are proximate, coherent and capable of forming a prima facie chain. This exercise involves examining whether the statements of

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approvers and witnesses, read with the surrounding circumstances relating to policy clauses, licensing structures, and the participation of wholesalers and retailers, prima facie lend assurance to the prosecution case. Such scrutiny, confined strictly to the parameters of prima facie assessment, does not amount to a *"mini trial"*, as the Court neither weighs competing versions nor tests credibility through cross-examination.

(D) Relied-Upon Documents and Statements of Witnesses

156. The investigating agency is entitled to rely upon such documents and statements of witnesses as it considers relevant for supporting the prosecution case and the conclusions claimed to emerge from the investigation. These relied-upon materials alone form the foundation of the prosecution at the stage of consideration of charge.

157. It is well settled that, at this stage, the Court confines its examination to the documents and statements expressly relied upon by the prosecution. Unrelied documents or statements are not taken into consideration for determining whether a prima facie case or grave suspicion is disclosed. Though such unrelied material is ordinarily not supplied to the defence along with the charge-sheet, the investigating agency is nevertheless required to furnish a list of unrelied documents and to permit inspection thereof, so as to ensure fairness and transparency in the investigative process.

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158. This legal position enables the defence to demonstrate, on the basis of the prosecution's own relied-upon material, that the evidence is insufficient to raise grave suspicion against the accused, or that the record does not disclose the foundational facts necessary to attract the essential ingredients of the alleged offences. At this stage, the defence is not required to establish its case or prove innocence; it is sufficient to show that even if the prosecution material is taken at its face value, it does not warrant the framing of charge.

(emphasis supplied)

159. Accordingly, the relied-upon documents and statements must be examined in their entirety to assess whether they, taken cumulatively, disclose a prima facie case. Where any document or statement relied upon by the prosecution does not support its case, or runs contrary to the prosecution narrative, such material cannot be ignored. Being part of the prosecution's own evidentiary basis, it is entitled to due consideration, and the prosecution cannot be permitted to rely selectively upon favourable portions while disregarding material that dilutes or undermines its own case.

(emphasis supplied)

160. The purpose of this limited judicial examination is to ensure that the criminal process is not set in motion on the strength of broad allegations or technical assertions divorced from a coherent

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factual foundation. A reasoned assessment of whether the prosecution material, even if assumed to be true, is capable of sustaining the alleged offences is an integral part of the statutory duty of the Court at the stage of framing of charge. Any contention that such an exercise amounts to conducting a mini trial is, therefore, misplaced.

(E) Consideration of Submissions and Scope of Adjudication

161. The Court has had the benefit of extensive arguments advanced by the Ld. Special Public Prosecutor for the CBI as well as by the Ld. Counsel appearing on behalf of the respective accused. The submissions addressed before the Court covered the allegations set out in the charge-sheets, the material placed on record, and the legal objections raised at this stage. The written submissions filed by the parties have also been examined. All contentions, whether on facts or in law, have been taken into consideration and are dealt with in the paragraphs that follow. It is made clear that the scrutiny undertaken at this stage is strictly confined to the documents and statements of witnesses relied upon by the prosecution.

162. For the sake of continuity and to avoid repetition, the brief gist of the submissions of the parties is set out in Annexure-A and shall form part of this order. The discussion that follows proceeds on the basis of the material so placed before the Court, without restating the submissions in detail.

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163. Having regard to the fact that as many as twenty-three accused persons have been arrayed in the present case, the appreciation of the prosecution material is being undertaken in a structured and phased manner to ensure clarity and coherence. At the outset, the material relating to the public servants, namely Accused Nos. A-8, A-1, A-2 and A-18, shall be examined individually, having regard to the distinct nature of the allegations attributed to them in their official capacity.

164. Thereafter, the Court shall proceed to consider the role attributed to Accused Nos. A-3, A-4, A-5, A-6, A-7, A-9, A-10, A-11, A-17 and A-23, whose alleged involvement is projected primarily in relation to the formulation, implementation and ancillary transactions connected with the policy.

165. Lastly, a consolidated analysis shall be undertaken qua Accused Nos. A-12, A-13, A-14, A-15, A-16, A-21 and A-22, who are alleged to be connected with the movement of the purported upfront money, stated to have been routed to Goa and utilised for election-related purposes.

166. The sequencing is adopted purely for analytical convenience and does not imply any pre-judgment on the merits of the allegations against any of the accused.

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Approach to Evaluation of Alleged Conspiracy — Cumulative and Individual Assessment

167. Before adverting to the specific allegations, it is necessary to note that the prosecution case rests substantially on a series of alleged meetings stated to have been held at different places and attended by multiple accused persons. The narrative presented seeks to knit these meetings and surrounding circumstances into a continuing conspiracy. The same set of events has been relied upon to attribute both a collective design and specific roles to individual accused.

168. In examining the material on record, this Court shall analyse the facts from two perspectives. First, cumulatively, to assess whether the circumstances taken together disclose the ingredients of a criminal conspiracy in law. Second, individually, to determine whether the material qua each accused satisfies the threshold required at this stage. Since the allegations are interlinked and overlapping, the same meetings, documents, statements and surrounding circumstances may require consideration more than once, at times collectively, and at times in the context of a particular accused.

169. The Court is conscious that such an approach may involve repetition, including reference to the same facts and even to the same legal principles. However, given the structure of the prosecution case and the manner in which common circumstances are

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projected against different persons, a truncated discussion would not subserve the ends of justice. As observed by the Hon'ble Supreme Court in **Ramesh Kumar Bhagchandaka v. State of Uttar Pradesh, ARISING FROM SLP (CIVIL) NOS.20045-20046/2024**, *"No doubt, brevity is the soul of precision but not at the cost of completeness."*

170. Guided by the aforesaid principle, the discussion that follows may, at places, revisit the same material; such reiteration is undertaken to ensure clarity, completeness and proper evaluation of the case as against each accused.

APPRECIATION OF PROSECUTION MATERIAL FOR DETERMINATION OF A PRIMA FACIE CASE

Allegation against A-8

171. The allegation relating to the formulation and implementation of the DEP-21/22 has, in substance, been placed at the doorstep of A-8, who, at the relevant time, was serving as Deputy Chief Minister and was holding the portfolio of the Excise Department. The prosecution narrative consistently projects him as the principal architect and controlling force behind the alleged conspiracy, as well as the central decision-making authority in matters of policy design, approval and implementation. In that view of the matter, and in order to preserve continuity and analytical clarity, it is appropriate

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to first examine the case qua A-8 before adverting to the role attributed to the remaining accused.

172. Broadly stated, the case against A-8 rests on four interlinked pillars. First, it is alleged that during the process of formulation of the policy, certain recommendations of the Ravi Dhawan Committee report dated 13.10.2020 were deliberately sidelined, modified or not adopted, and that such departures were calculated to favour select private liquor interests. The prosecution has placed reliance upon the first draft GoM report dated 15.03.2021, the second draft report dated 19.03.2021 and the final report dated 22.03.2021. It has been asserted with emphasis that the report dated 19.03.2021 was nothing but a document handed over by members of the *'South Group'* and prepared at their instance. The prosecution further seeks to suggest that key provisions, such as the 12% wholesale margin, the one-wholesaler-per-manufacturer structure, relaxed eligibility norms and dilution of related-entity restrictions, were introduced or structured in a manner conferring undue advantage, contrary to Expert Committee recommendations and without documented deliberation. It is further alleged that fabricated public feedback was generated in January 2021 in order to create an artificial basis for such departures. The gravamen of the charge, therefore, is not mere deviation from recommendations, but deviation accompanied by intent to confer pecuniary benefit.

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173. Secondly, reliance is placed upon the alleged removal or non-placement of a draft Cabinet Note dated 28.01.2021, which, according to the prosecution, contained adverse legal opinions not aligned with the final policy framework. It is contended that A-8 suppressed such opinions by removing and causing the disappearance of the said Cabinet Note, the last conscious custody of which is attributed to him. The prosecution further alleges that he thereafter initiated a fresh Cabinet Note and orchestrated the constitution of a GoM as a façade, personally authoring and finalising GoM drafts on the basis of 36 pages allegedly handed over by A-3 and recovered from devices seized from his office.

174. Thirdly, the prosecution alleges a broader criminal conspiracy between A-8 and certain private individuals and business entities described as members of the *"South Group."* It is alleged that during the policy-drafting phase, A-8 maintained back-channel communication with A-3 (Vijay Nair) and exercised overarching influence over the Excise Department to facilitate licence grants and suppress scrutiny, particularly in favour of M/S Indospirits belonging to A-7. Though it is not alleged that he directly handled cash, he is accused of having knowledge of, and consenting to, the generation and recovery of illegal gratification of approximately ₹90-100 crores through intermediaries.

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175. Fourthly, the theory of proceeds of crime is superimposed upon the policy narrative. It is alleged that once the policy enabled higher margins or concentrated control in the wholesale and retail segments, funds were generated and routed through intermediaries and later utilised for electoral purposes. It is further alleged that A-8 obstructed the investigation by discarding or destroying mobile phones and suppressing material records, thereby attracting offences under Sections 120-B and 201 IPC read with the relevant provisions of the PC Act. The alleged financial trails are thus sought to be traced back to policy-level decisions attributed to him.

176. It is evident that, in the prosecution's presentation, the alleged acts of the other accused are portrayed as flowing from, or being facilitated by, the policy architecture attributed to A-8. If the foundational allegation of manipulation at the stage of formulation does not withstand scrutiny, the derivative allegations concerning conspiracy, generation of illegal gratification and alleged proceeds of crime would necessarily require independent and convincing material to sustain them.

177. Equally, the institutional setting in which the policy came to be framed cannot be overlooked. The formulation of an excise policy is not an isolated ministerial act. It ordinarily involves recommendations of expert bodies, deliberations within the Department, examination by the Finance and Law Departments,

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consideration by the Council of Ministers and, within the constitutional framework governing the National Capital Territory of Delhi, interaction with the office of the Hon'ble Lieutenant Governor (hereinafter be referred to as *"Hon'ble LG")*. The attribution of criminal intent to a policy decision must therefore be tested against this collective and layered decision-making process, and not viewed in isolation.

178. For these reasons, it would be appropriate to examine, in a structured manner, the material placed on record qua A-8. This would require scrutiny of the documentary trail, including committee reports, departmental notings, GoM deliberations, Cabinet approvals and communications with the Lieutenant Governor's Secretariat; assessment of whether the alleged deviations amount to policy choices within administrative discretion or disclose prima facie mala fides; and evaluation of whether any cogent linkage is established between the impugned policy clauses and the alleged monetary transactions.

179. Only after such an examination can the role attributed to the other accused be meaningfully considered, since, on the prosecution's own showing, their alleged participation is premised upon the central role ascribed to A-8 in the formulation and implementation of the DEP-21/22.

180. Before proceeding to examine the specific allegations against A-8, this Court considers it appropriate to first undertake a

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prima facie examination of the relevant policy documents, namely, the Ravi Dhawan Committee Report dated 13.10.2020, the first draft GoM Report dated 15.03.2021, the subsequent draft dated 19.03.2021, the GoM Report dated 22.03.2021, and the Minutes of Meeting dated 05.04.2021.

181. This exercise is undertaken for a limited purpose. The documents are to be read sequentially and on their own terms, without, at this stage, importing the allegations surrounding the formulation process. The object is to ascertain whether the progression reflected in these reports discloses an organic and incremental development of policy. The endeavour in the ensuing discussion is confined to a plain reading of these reports to assess whether the trajectory of policy change, as emerging from the documents themselves, prima facie discloses any design indicative of conspiracy, preferential treatment to any particular group, or the creation of cartelisation or monopoly.

(A) Scope and Limits of Judicial Scrutiny-Preliminary Clarification Before Examination of Policy Reports

182. At the outset, this Court deems it appropriate to clarify the limited compass within which the Ravi Dhawan Committee Report, the GoM Report, and the documents culminating in the DEP-21/22 are being examined. It is not the province of a criminal court to evaluate the wisdom, advisability, or economic soundness of a public policy. The formulation of policy falls within the executive

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domain, and courts do not substitute their views for those of the policy-maker.

183. The present scrutiny arises only because the prosecution alleges that the very formulation and implementation of the DEP-21/22 were tainted by criminal conspiracy. In that context, it becomes necessary for this Court, at least on a prima facie appraisal, to consider whether the material on record suggests that the policy was the result of a structured and consultative administrative process, or whether it discloses circumstances indicative of a pre-conceived conspiracy. The exercise undertaken is thus confined to determining whether the threshold required for framing of charge,namely, the existence of grave suspicion, is satisfied.

184. It is significant that the Ravi Dhawan Committee Report, the GoM Report, and the subsequent policy documents are not disputed by either side. Their authenticity is not in question. They form part of the admitted documentary record. Where such documents are contemporaneous and form part of the official decision-making process, they must be read in their plain terms. While oral statement may vary in quality and reliability, documentary records, especially those generated in the ordinary course of governmental functioning, provide an objective account of events and deliberations.

(emphasis supplied)

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185. The assessment that follows is, therefore, undertaken only to ascertain whether the prosecution's allegation of conspiracy finds prima facie support in the admitted documentary framework, or whether the record reflects an institutional policy development. This Court reiterates that it is neither adjudicating upon the merits of the policy nor expressing any opinion upon its desirability; the enquiry is confined strictly to the question whether the material discloses the essential ingredients of conspiracy at this stage.

(i) Structural Framework of the Supply Chain (Earlier Policy vis-à-vis DEP-21/22)

186. Before adverting to the specific recommendations contained in the Ravi Dhawan Committee Report, the successive draft reports of the GoM, and the eventual crystallisation of those deliberations into the DEP-21/22, it is considered appropriate, for the sake of analytical clarity, to first delineate the structural framework within which the excise regime operated. A comparative depiction of the supply chain under the earlier policy, as contrasted with the framework introduced under DEP-21/22, facilitates a clearer understanding of the structural realignment that is the subject of scrutiny in the present proceedings.

187. This exercise is undertaken only to place the competing policy frameworks in perspective. It is not intended to pronounce upon the relative merits of either regime, but to provide a neutral structural

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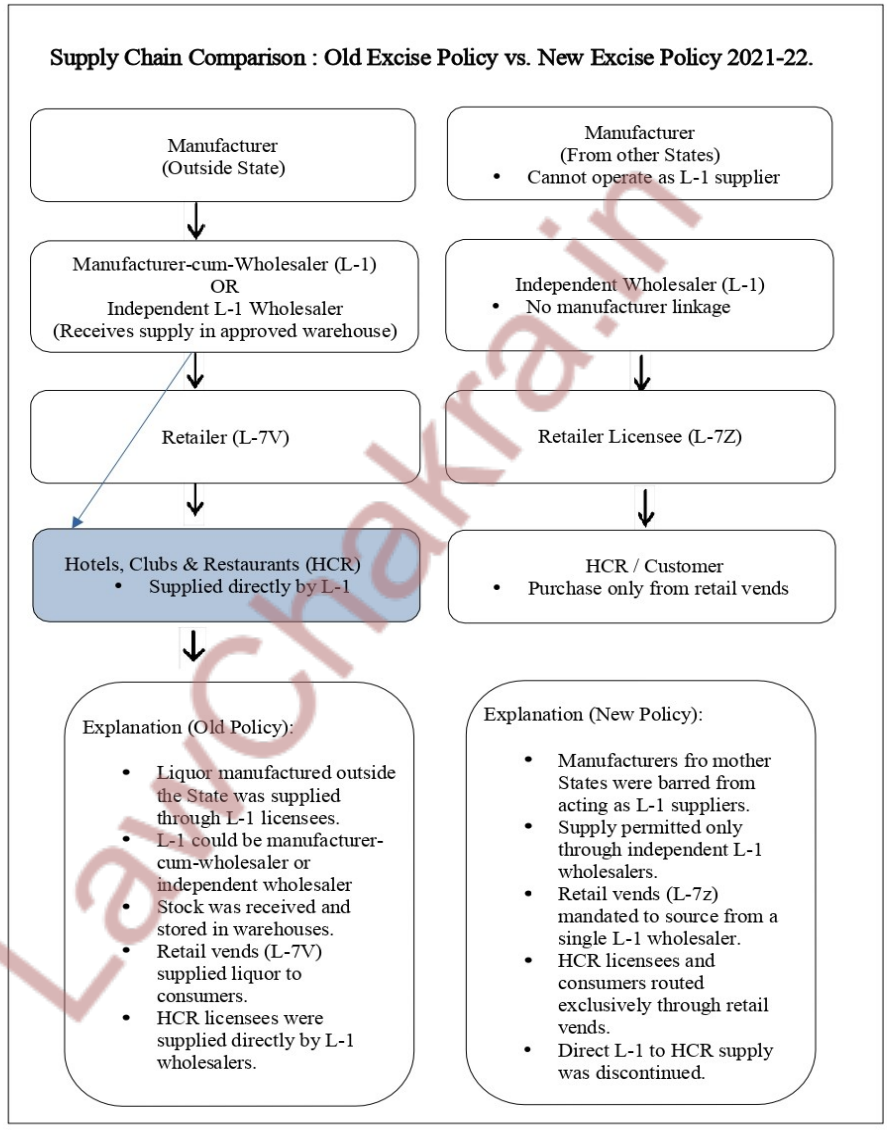
backdrop against which subsequent policy modifications may be examined.



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188. The above depiction sets out, in schematic form, the architecture of the two regimes. It clarifies the operational structure prevailing prior to DEP-21/22 and the structural adjustments introduced thereafter. The examination of the Ravi Dhawan Committee recommendations, the draft GoM reports dated 15.03.2021, 19.03.2021 and final GoM report dated 22.03.2021, and the final GoM Minutes culminating in the DEP-21/22 must be viewed against this foundational framework.

189. The comparative flow chart thus serves as an analytical aid, enabling the Court to assess subsequent clauses and alleged deviations within their proper structural context.

(ii) Structural Vulnerabilities in the Pre-Policy Wholesale–Retail Architecture and the Committee's Recommendation for Functional Separation by Ravi Dhawan Committee Report

190. A cumulative reading of the Report indicates that the Committee identified a structural vulnerability in the prevailing architecture, wherein the supply chain functioned as: *"Distillery outside Delhi → Wholesale licenses (L-1) → Retail licenses."* Within this structure, the Committee recorded: *"Manufacturers may be able to acquire retail licenses through proxy ownership in the existing system,"* and further observed: *"As a result of depot operations, significant savings in terms of overhead costs, labour costs and rentals*

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shall be made by the manufacturers who are also presently engaged in wholesale operations."

191. The Report therefore recognises that manufacturers were not confined to production alone but were *"presently engaged in wholesale operations,"* and, by way of proxy ownership, were in a position to influence the retail layer as well. Such vertical alignment inevitably resulted in structural concentration of control and the retention of financial advantages across different tiers of the distribution chain.

192. The magnitude of the financial incentive inherent in the system was also candidly acknowledged: *"The incentive to cheat is huge because of the very nature of the commodity, fast selling and highly taxed. A single bottle of liquor, where duty is not paid, not only leaves the state high and dry in terms of revenue but also pushes the profit margins from 10-15% to 65-70%, as the major component of the price is duties viz. Excise duty and VAT…"*

193. The Report further records: *"Non-duty paid liquor having duplicate barcodes were found in retail stores which is not possible without the complicity of the wholesaler…".* Thus, duplication of barcoding and the circulation of non-duty paid liquor were identified as systemic concerns, and the role of the wholesaler was treated as central to such irregularities.

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194. The Report also makes a comparative revenue observation: *"The revenue contribution by the Government vends is almost equal to private sector inspite of 40% more government vends. The average contribution per vend of government corporation in terms of Excise Duty is Rs. 5 crores p.a. in comparison to Rs. 8 crores p.a. per private vend."* While the Report does not expressly connect the lower per-vend revenue of corporation outlets with duplication or Non Duty Paid Liquor, the revenue differential, when viewed alongside the admitted presence of barcode duplication in retail stores, reflects that vulnerability within the system was not demonstrably confined to one category of outlet. The document records the disparity but does not conclude that corporation-operated vends were insulated from similar risks.

195. In response to the perceived concentration of control and the attendant risk of leakage, the Committee recommended: *"IMFL trade should be revamped by bringing the entire wholesale operations under one government entity,"* so as to: *"break the link between manufacturers and retailers by ensuring that all stocks are now routed only through this corporation."*

196. However, when the acknowledgement of lower revenue performance of corporation vends is considered together with the identified issues of duplication and Non Duty Paid Liquor, the assumption that a Government corporation, by its character alone,

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would function free from the possibility of corruption or leakage does not arise as a finding supported by comparative material within the Report. The Committee points to structural deficiencies in the earlier vertically integrated model and proposes functional separation; yet the proposition that wholesale control by a Government entity would, by itself, eliminate the risks of duplication, evasion or mismanagement is not established on any empirical analysis contained in the Report.

(iii) Evolution of Wholesale Margin Structure in Draft Reports- Examination of Alleged Enhancement

197. The prosecution seeks to construct a narrative that the draft dated 19.03.2021 was not an institutional document but a privately prepared text, allegedly printed at the instance of A-4, routed through A-3 and handed over to A-8, thereby suggesting that the wholesale margin of 12% was inserted at the behest of the so-called *"South Group"* to facilitate recoupment of alleged upfront payments.

198. When the two drafts are placed side by side, the foundation of this hypothesis requires careful scrutiny. The draft dated 15.03.2021 expressly provided: *"6. There will be no cap on distributor margin set by the Govt. and brands can individually set that with their chosen distributor. A 5% minimum distribution fees will be mandatory to ensure no undercutting takes place between L1 license holders which will indirectly affect the quality of liquor being supplied and to ensure*

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no malpractices take place under the guise of a lower distribution %.".

199. A plain reading of this clause reveals three clear features:

(i) No upper cap was prescribed by the Government;

(ii) The distributor margin was left to be negotiated between brand and distributor; and

(iii) Only a minimum distribution fee of 5% was mandated to prevent undercutting.

200. Thus, under the first draft, the margin was open-ended, subject only to a minimum threshold. There was no ceiling. The wholesaler could, in theory, negotiate margins beyond 12%, if the commercial arrangement so permitted.

201. It is in this backdrop that the investigating agency has sought to project that in the second draft report there was an abrupt increase of wholesale margin from 5% to 12% from the first draft report to the second draft report. The relevant portion of para 16.16 of the first supplementary charge-sheet reads: *"… **It has been revealed that in this draft GoM report, the profit margin for wholesalers (L-1 licensee) was abruptly increased from 5% to 12% of EDP** + Import Fee. Further, the eligibility criterion of turnover for wholesalers (L-1 licensee) was also increased from Rs.100 crores to Rs.500 crores, every year for the past 05 years."*

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202. The above assertion proceeds on the premise that the first draft report dated 15.03.2021 fixed the wholesale margin at 5%. The document itself does not support that reading. The clause in the first draft report categorically records that there would be no cap on distributor margin and that brands could individually set the margin with their chosen distributor, subject only to a minimum of 5%. In contrast, the draft dated 19.03.2021 records: *"GoM recommends simplification of the price fixation. A standard distribution fee to be fixed @ 12% of EDP + Import Fee. The 12% distributor margin will cover the significantly higher level of investment required for global distribution standards, freight & insurance and a reasonable profit for the distributor. The reasonable margin will eliminate the need to indulge in unethical practices."*

203. What emerges, therefore, is not a transition from a fixed 5% to 12%, but a transition from no cap (with a 5% minimum) to a standardised 12%. The first draft did not prescribe a 5% ceiling; it prescribed only a floor. The second draft replaced a flexible regime with a uniform rate. It is also of significance that the investigating agency has not alleged manipulation in the first draft. The allegation of manipulation is directed only against the second draft, and that too on the premise that the wholesale margin was enhanced to facilitate recoupment. If the first draft had culminated into the final policy, the wholesaler entities such as M/S Indospirit and M/S BSPL, who are

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alleged to be part of the conspiracy for recoupment, would have operated under a regime with no upper cap on distributor margin. Such an arrangement, in theory, provided a wider commercial latitude and a greater opportunity to accumulate higher margins. The second draft, by introducing a standardised 12% margin, curtailed that flexibility.

(emphasis supplied)

204. It is difficult to reconcile this with the prosecution's hypothesis that the so-called conspirators were engineering a policy solely to maximise recoupment. A policy that replaces an uncapped negotiable margin with a fixed standard cannot, on its face, be said to enlarge the scope for windfall accumulation. If anything, it narrows discretion. The suggestion that a group would design a framework disadvantageous to its own alleged objective renders the theory internally inconsistent.

(emphasis supplied)

- **Conduct of Investigating Officer and impact on fair investigation.**

205. The portrayal of this change as an *"abrupt increase from 5% to 12%"* is not borne out from the text of the document. A conclusion of manipulation cannot rest upon attributing to the earlier draft a position it never adopted. An investigating agency is expected to place the record before the Court fairly and in its correct context. A

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selective reading that ignores the explicit statement that there would be no cap on distributor margin and proceeds as though the earlier draft fixed the margin at 5% does not assist the Court. The record must be read as it stands. On a plain reading of the two drafts, the hypothesis of conspiracy, built upon an alleged increase from 5% to 12%, does not withstand textual scrutiny.

(iv) Enhancement of Turnover Criteria for L-1 Licence-Examination of Prosecution's Theory of Elimination of Competition.

206. Another circumstance relied upon by the prosecution is the enhancement of the eligibility criteria for grant of L-1 licence in the second draft. It is suggested that the turnover requirement was increased from ₹100 crores every year for the past five years (as reflected in the first draft report) to ₹500 crores every year for five years in the subsequent second draft report, and that such enhancement was introduced at the instance of the so-called *"South Group"* to eliminate competition. It is further relevant that in the final GoM report the threshold was moderated to ₹250 crores every year for three years, and in the final DEP-21/22 it stood reduced to ₹150 crores every year for past three years.

207. The prosecution projects the second draft as the decisive stage where competition was allegedly sought to be curtailed by raising the turnover benchmark. However, this position does not appear to align with the factual material on record. The very entity

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alleged to be beneficiaries of the conspiracy, M/S Indospirit, were themselves confronted with difficulty in meeting the turnover requirement. The material placed before the Court indicates that M/S Indospirit Marketing Private Limited (M/S IMPL) struggled on the turnover criterion and was unable to satisfy even the reduced benchmark of ₹150 crores in the final policy, leading to withdrawal of its application and a subsequent attempt under the name of M/S Indospirit. If the prosecution theory is that the eligibility threshold was deliberately raised to eliminate competitors and secure advantage for conspirators, the fact that the alleged conspirators themselves faced disqualification on the very same turnover condition introduces a serious inconsistency. A clause that renders the supposed beneficiaries ineligible cannot, on its face, be described as a provision crafted exclusively for their benefit.

(emphasis supplied)

208. The sequence of drafts further shows a movement in figures, from ₹100 crores to ₹500 crores, then to ₹250 crores for three years, and ultimately to ₹150 crores in the notified policy. This progression reflects revision and recalibration rather than a one-directional enhancement intended to permanently exclude market participants. Numerical thresholds in policy formulation are often reassessed in light of feasibility and market considerations.

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209. Viewed in this context, the allegation that the turnover clause was engineered solely to eliminate competition and facilitate recoupment becomes difficult to sustain. The very premise of conspiracy, that the framework was structured to secure wholesale profits for particular entities, stands diluted if those entities were themselves rendered ineligible under the proposed conditions. A conspiracy theory that rests on provisions which disqualify its alleged beneficiaries cannot be accepted at face value. The shifting turnover criteria, read in their entirety, do not by themselves establish that the second draft was manipulated to eliminate competition for the benefit of a predetermined group. On the contrary, the record indicates that the eligibility clause operated uniformly and did not carve out any express or implied exemption in favour of the alleged conspirators.

(v) Related Entities (51% Ownership/Control)

210. Upon a careful and holistic consideration of the material on record, this Court finds that the incorporation of the *"related entities"* concept, anchored in a majority ownership/control threshold of 51% (or more than 50%), in clause 3.1.2 (vii) of the DEP-21/22 cannot, by any stretch of reasoning, be characterised as a novel, arbitrary, or conspiratorial innovation. A plain reading of the draft reports shows that while the principle of separation between manufacturer, wholesaler and retailer existed from the beginning, the specific

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definition of *"related entities"* did not form part of the earlier drafts. The drafts dated 15.03.2021, 19.03.2021 and 22.03.2021 referred in general terms to *"sister concerns," "proxy entities,"* and indirect ownership, but did not prescribe any quantified or structured test. The detailed formulation, incorporating the 51% majority ownership criterion, prohibition of common proprietors/partners/directors, and exclusion of holding, subsidiary relationships, appears for the first time in the Minutes dated 05.04.2021, when the GoM recommendations were considered at the level of the Council of Ministers.

211. This sequence is of relevance. The definition of *"related entities"* was not embedded in any of the earlier draft reports, including the draft dated 19.03.2021 which is alleged to have been created by the so-called *"South Group."* It was introduced subsequently during governmental deliberation. On the face of the documents, what emerges is institutional formalisation at the stage of ministerial consideration, not insertion at the draft stage attributed to private individuals. On the contrary, the adoption of a majority-control test is a well-recognised and time-tested regulatory technique employed across Central Government statutes, procurement frameworks, and competition-law jurisprudence to address the mischief of cartelisation, concentration of economic power, and circumvention of eligibility norms through proxy or group entities.

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212. It is a matter of record that Indian regulatory architecture repeatedly treats entities under common control or majority ownership as belonging to the same economic group. Statutory and policy instruments, ranging from company law (holding–subsidiary relationships), foreign-exchange regulations (beneficial ownership exceeding 50%), to Government tender and PPP documents (definitions of *"associate"* or *"affiliate"* based on control through more than 50% voting rights), consistently adopt this threshold to ensure that competition is real and not illusory. The rationale is self-evident: where control vests in the same controlling mind, formal corporate separateness cannot be permitted to defeat the object of fair competition. Viewed in this backdrop, the 51% criterion employed in the DEP-21/22 is not an outlier but falls squarely within the mainstream of Indian regulatory practice.

213. Equally significant is what preceded the DEP-21/22. Neither the earlier Excise Policy nor the Ravi Dhawan Committee Report recommended or even contemplated a structured *"related entities"* prohibition. In such a framework, absent an express restriction on common ownership or control, manufacturers, by deploying subsidiaries, group companies, or front entities, would have had a clear and unhindered pathway to vertically influence or indirectly control retail operations, thereby frustrating both competition and consumer-interest objectives.

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214. The Court cannot lose sight of the fact that policy design must respond not only to past experience but also to foreseeable market behaviour. The introduction of the *"related entities"* clause in the DEP-21/22 addresses precisely this regulatory gap. It operates as a preventive safeguard, ensuring that privatisation of retail does not degenerate into disguised vertical integration or group dominance, and that the market structure remains competitive rather than cartel-prone. Far from being a suspicious deviation, the clause represents a course correction aligned with competition principles and administrative prudence.

215. Viewed thus, the *"related entities"* concept based on 51% ownership/control serves a legitimate, rational, and policy-consistent purpose. It strengthens the architecture of the DEP-21/22 by closing avenues of indirect control, promotes genuine competition, and protects against monopoly formation. The absence of such a provision in earlier policies or advisory reports cannot be weaponised to impugn its later introduction; rather, it underscores the necessity and maturity of the reform undertaken. In the considered opinion of this Court, the clause confers benefit and robustness upon the DEP-21/22, and cannot prima facie be read as indicative of any ulterior design or conspiratorial intent.

216. At this juncture, it must also be noted that the prosecution's attack on the DEP-21/22 is, in its very formulation, self-

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destructive. The very clauses projected as arbitrary, tailor-made, or conspiratorial, namely those relating to the definition of related entities, structural separation, and competitive safeguards, operate in a manner that negates, rather than advances, the allegation of cartelisation or group-centric benefit. Measures designed to dismantle common control, prevent vertical integration, and restrict dominance cannot logically be invoked as instruments to favour a particular group. The prosecution's narrative thus collapses under its own weight: the policy features assailed as suspicious are, in substance and effect, those which strengthen competition and constrain concentration. Far from lending support to the theory of undue benefit to the so-called *"South Group"*, these provisions, when examined in their correct regulatory context, affirm the defence case that the DEP-21/22 was structured to disperse control, curb monopoly, and promote a level playing field.

(vi) Retail Vends: Alleged Cartelisation and Adoption of Auction Model

217. Upon consideration of the material placed on record, this Court finds that the recommendations of the Ravi Dhawan Committee report and those of the GoM are substantially aligned on the question of privatisation of retail vends. The GoM, in essence, adopted the Committee's recommendation that retail trade in Delhi be privatised. The divergence projected by the investigating agency pertains not to

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privatisation per se, but to the method of allocation, the adoption of an auction-based model in place of the lottery-based mechanism adverted to in the Committee's report.

218. The prosecution asserts that the shift to auction-based allocation facilitated cartelisation in the retail segment by enabling concentration of retail zones in the hands of certain entities. However, the mere selection of auction as a mode of allocation, in preference to lottery, cannot by itself be elevated to a circumstance indicative of criminal design. The choice between auction and lottery lies within the domain of policy and economic governance. Each model is capable of yielding varied market outcomes. In the absence of material demonstrating manipulation of bids, distortion of eligibility, or procedural impropriety in allocation, the inference of conspiracy cannot rest solely upon the adoption of one permissible allocation mechanism over another.

(emphasis supplied)

219. It is also of relevance that the policy simultaneously introduced safeguards to address apprehensions of cartelisation and vertical integration. The stipulation that manufacturer, wholesaler (L-1), and retailer could not be held by *"related entities"* constitutes an express structural barrier against cross-tier concentration. The incorporation of such disqualification norms reflects a regulatory intent to prevent consolidation across levels. The existence of these

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anti-concentration safeguards does not readily match with the allegation that the framework was consciously structured to enable cartel formation.

220. This Court also cannot overlook the contextual backdrop in which the DEP-21/22 was formulated. The policy emerged during a period marked by unprecedented fiscal strain occasioned by the Covid-19 pandemic. State revenues had suffered severe contraction owing to lockdown measures, while expenditure obligations expanded significantly to address public health exigencies. Governments across the country, confronted with similar constraints, recalibrated revenue-generating mechanisms. The choice of an auction-based model, which ordinarily assures competitive bidding and potentially enhanced revenue realisation, cannot be divorced from that fiscal context. Policy formulation must be appreciated as a response to the economic realities prevailing at the relevant time.

221. An instructive feature of the record is the statement of the prosecution's own witness, Sikander Mann (PW-2). He has stated that he is the owner of ADS Spirits Private Limited, manufacturer of the brand *"Royal Green,*" and that he and his family members operate approximately 60 liquor retail vends in the State of Haryana. This statement discloses that a manufacturing entity and its promoters are simultaneously associated with a considerable number of retail outlets within a single State.

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(emphasis supplied)

222. This Court is neither required nor inclined to examine the excise framework of the State of Haryana. The significance of the statement lies in the factual position it reveals. The presence of substantial retail concentration in the hands of one family, which is also connected with manufacturing activity, demonstrates that such aggregation is not a phenomenon confined to the DEP-21/22. It is also borne out from the policy record that the structural changes introduced in DEP-21/22 were expressly aimed at addressing concerns of monopoly and cartelisation. In that backdrop, mere concentration cannot, by itself, sustain an inference of policy-driven impropriety. Structural concentration may emerge under varied regulatory models, and its existence alone does not establish criminality.

(emphasis supplied)

223. From the standpoint of the prosecution's own case, it is significant that no allegation has been advanced that the bidding process of retail vends in Delhi was vitiated by manipulation, irregular evaluation, or misconduct on the part of the TEC. There is no assertion that bids were unlawfully structured, that eligibility criteria were selectively relaxed, or that the allocation process was procedurally compromised. The challenge is directed at the model itself, not at its implementation.

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224. The allegation of cartelisation is further attenuated by the factual matrix concerning M/S KGRL. The record indicates that M/S KGRL was unsuccessful in the initial round of bidding, wherein only 20 vends were allotted. The remaining vends were subsequently re-bid, and it was at that stage that M/S KGRL succeeded. This sequence does not, prima facie, reflect a pre-arranged or assured allocation.

225. Beyond M/S KRGL and Magunta Farms Ltd., the prosecution has not established that any other entity was directly or indirectly connected through ownership interest in an L-1 wholesaler. Nor is it the case of the prosecution that manufacturers were structurally linked to wholesalers or retailers in contravention of the related-entity norms. When the broader narrative is examined, manufacturers, who were central to the concerns recorded in the Ravi Dhawan Committee Report regarding vertical integration, do not emerge as beneficiaries of the alleged cartelisation under the new framework.

(emphasis supplied)

226. On an overall appraisal, what emerges from the material is not demonstrable evidence of a cartel engineered through auction-based allocation, but a policy shift accompanied by express anti-concentration safeguards, implemented through a bidding process that has not been shown to be procedurally flawed. The theory that the

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adoption of auction-based retail allocation was itself a vehicle for cartelisation does not find prima facie support from the reports anyalised above.

(vii) Concluding Assessment on the Evolution of the Policy Framework

227. A cumulative reading of the Ravi Dhawan Committee Report, the draft GoM reports dated 15.03.2021, 19.03.2021 and final report dated 22.03.2021, together with the Minutes of Meeting dated 05.04.2021, indicates a visible progression in policy formulation rather than any abrupt or discontinuous shift. On a plain and sequential reading of the documents placed, the draft dated 15.03.2021, followed by the drafts dated 19.03.2021 and final GoM report dated 22.03.2021, and thereafter the Minutes incorporating suggestions on 05.04.2021, what emerges is continuity in structure with calibrated refinement in detail.

228. Certain core elements remain consistent throughout:

(i) Separation of manufacturer from wholesale (no manufacturer to hold L-1);

(ii) Prohibition on L-1 owning retail vends;

(iii) Requirement of a professionalised wholesale structure;

(iv) Introduction of mechanisms to curb spurious or non-duty paid liquor;

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(v) Consolidation of L-1/L-1F permissions into a unified L-1 framework;

(vi) Exclusive sale by L-1 to retail vends;

(vii) Provision for cancellation and forfeiture upon violation.

229. These structural pillars do not appear to have been introduced suddenly at a later stage; rather, they persist across drafts.

230. At the same time, there are discernible calibrations in quantitative thresholds:

Wholesale Turnover threshold:

• 15.03.2021 – ₹100 crores every year for past 5 years;

• 19.03.2021 – ₹500 crores every year for past 5 years;

• 22.03.2021 – ₹250 crores every year for past 3 years (excluding the Covid year);

• 05.04.2021– ₹250 crores every year for past 3 consecutive years.

Wholesale Experience requirement:

• 15.03.2021 – 10 years;

• 19.03.2021 – 10 years;

• 22.03.2021 – reduced to 5 years;

• 05.04.2021 – framed in broader terms, linked to professional standards with turnover criteria retained.

Wholesale Annual licence fee:

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- 15.03.2021 – ₹10 crores;
- 19.03.2021 – ₹10 crores;
- 22.03.2021 – reduced to ₹5 crores;
- 05.04.2021 – no material contradiction.

231. Such variation suggests calibration in response to internal deliberation, economic feasibility, and anticipated market participation. The exclusion of the Covid year in the 22.03.2021 GoM report is contextual and reflects a pragmatic adjustment rather than a structural deviation. There is no material in these successive drafts indicating introduction of an entirely new structural concept at a late stage, removal of safeguards in favour of a particular class, sudden tailoring of eligibility criteria for a named entity, or abandonment of the principle of separation between manufacturer and retail.

232. Instead, the trajectory reflects tightening, loosening, and re-balancing of quantitative thresholds, turnover, years of experience, licence fee, while retaining the same architectural framework of the wholesale model. When this evolution is read alongside the concerns recorded in the Ravi Dhawan Committee Report, namely, vertical integration of manufacturers into wholesale and retail, concentration of control, vulnerability to non-duty paid liquor and duplication of barcodes, and systemic incentives for evasion, the subsequent drafts appear to respond to identified deficiencies. The separation of

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manufacturing from wholesale, prohibition of cross-ownership, structured eligibility norms, and refinement of distribution margins reflect attempts to address monopoly tendencies and regulatory leakages under the earlier regime.

233. At the same time, while the policy sought to break manufacturer-level dominance and curb circulation of non-duty paid liquor, the restructuring inevitably shifted operational control towards entities qualifying at the wholesale and retail levels. In practical terms, commercial influence moved from manufacturers to large-scale wholesalers and retailers capable of meeting eligibility benchmarks. The earlier vertical monopoly was sought to be dismantled; however, concentration of economic weight at downstream tiers was a foreseeable regulatory consequence.

(emphasis supplied)

234. From a neutral analytical standpoint, what is visible is an iterative drafting process, proposals examined, modified, and refined over a short span, culminating in the Minutes dated 05.04.2021, which incorporate earlier suggestions in structured form.

235. Whether such evolution amounts to organic development or manipulation cannot be inferred merely from the presence of modification. Fiscal and regulatory policy formulation commonly involves balancing revenue objectives, market

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participation, administrative feasibility, and legal safeguards. The mere alteration of thresholds or licence fees, absent material demonstrating targeted tailoring or concealed insertion, does not by itself establish manipulation.

236. On the material presently examined, the sequence reflects progressive crystallisation of a wholesale model in response to earlier systemic concerns. A conclusion of criminal manipulation would require independent material demonstrating that the changes were introduced to favour identified beneficiaries or were inconsistent with the declared objectives of reform. Such inference does not arise solely from the textual progression of these drafts. At this stage, the Court is concerned only with whether the broad structural shift, taken in isolation, gives rise to a prima facie inference of criminality. On such limited scrutiny, no such inference arises merely from the fact of privatisation or the incorporation of new regulatory clauses.

(B) Analysis on the Specific Allegations against A-8

237. The prosecution has levelled specific allegations against A-8 alleging manipulation and criminal conspiracy during the formulation of the policy. Those allegations are required to be examined independently and on their own evidentiary footing. The inquiry at this stage is confined to determining whether the material

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placed on record, if taken at face value, is sufficient to cross the threshold for framing of charge.

238. The Court shall, therefore, proceed to consider each imputed allegation qua A-8 separately, confining itself to the material placed on record, for the limited purpose of determining whether the ingredients of the alleged offences are disclosed and whether a prima facie opinion warranting framing of charge is made out.

239. In order to appreciate the sequence in which events unfolded, from the constitution of the Ravi Dhawan Committee to the eventual coming into force of the DEP-21/22, it becomes necessary to set out the chronology in a structured manner. The formulation of the policy was not a singular act but the result of a series of steps, deliberations, draft reports, inter-departmental exchanges, and approvals extending over a defined period of time.

240. To bring clarity to this progression, and to avoid any disjointed appreciation of isolated documents, the date-wise sequence and flow chart of material events is delineated below in a structured form. This chronological presentation is intended to provide a coherent narrative of the policy-making process, enabling the Court to assess the allegations in their proper temporal context rather than in fragmented isolation.

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Date	Event	Authority / Decision Reference
04.09.2020	Committee constituted to examine reforms in the excise regime.	Excise Department; Committee under Chairmanship of the then Excise Commissioner
13.10.2020	Committee submitted detailed report identifying structural issues and recommending reforms.	Excise Department (Committee Report)
22.03.2021	GoM recommendations approved.	Council of Ministers – **Cabinet Decision No. 2983**
06.04.2021	Draft DEP-21/22 prepared and submitted to Finance Department after GoM approval.	Excise Department → Finance Department
08.04.2021	Draft Cabinet Note approved.	Deputy Chief Minister
15.04.2021	Revised Cabinet Note approved; proposal forwarded to LG.	Council of Ministers – **Cabinet Decision No. 2994**
20.05.2021	LG's suggestions recorded; revision of Cabinet Note directed.	Deputy Chief Minister (noting on file)
21.05.2021	Revised Cabinet Note approved after incorporating LG's suggestions; file sent for implementation.	Council of Ministers – **Cabinet Decision No. 3003**
28.09.2021	Direction to put up proposal for opening liquor vends in non-conforming wards.	Deputy Chief Minister (ministerial direction)
28.10.2021	Order levying 2% CST; clarification regarding billing of freight/insurance/handling charges.	Excise Department (Departmental Order)

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Date	Event	Authority / Decision Reference
05.11.2021	Proposal regarding vends in non-conforming wards approved.	Council of Ministers – Cabinet Decision No. 3047
Post-05.11.2021	Proposal approved subject to approvals from DDA and MCD.	Lieutenant Governor (conditional approval)
06.12.2021	High-Powered Committee constituted to examine non-conforming wards issue.	Lieutenant Governor (order constituting Committee)
10.12.2021	High-Powered Committee submitted report on availability of conforming areas and suggested adjustments.	High-Powered Committee Report
01.02.2022	Direction for grant of pro-rata licence-fee relief after examining sales impact during Covid period.	Deputy Chief Minister (direction on file)
03.02.2022	Direction allowing additional retail vends in conforming wards; Council approval to follow.	Deputy Chief Minister (recorded note)
08.02.2022	Order issued granting pro-rata licence-fee relief.	Excise Department (implementation order)
09.02.2022	Circular issued permitting opening of additional vends in conforming wards.	Excise Department (circular)
28.02.2022	Direction noting need for further time to stabilise policy and resolve teething issues.	Deputy Chief Minister (ministerial direction)
20.05.2022	Direction extending Excise Policy up to 31.07.2022.	Deputy Chief Minister (extension direction)
23.05.2022	Formal order issued extending the policy.	Excise Department (extension order)

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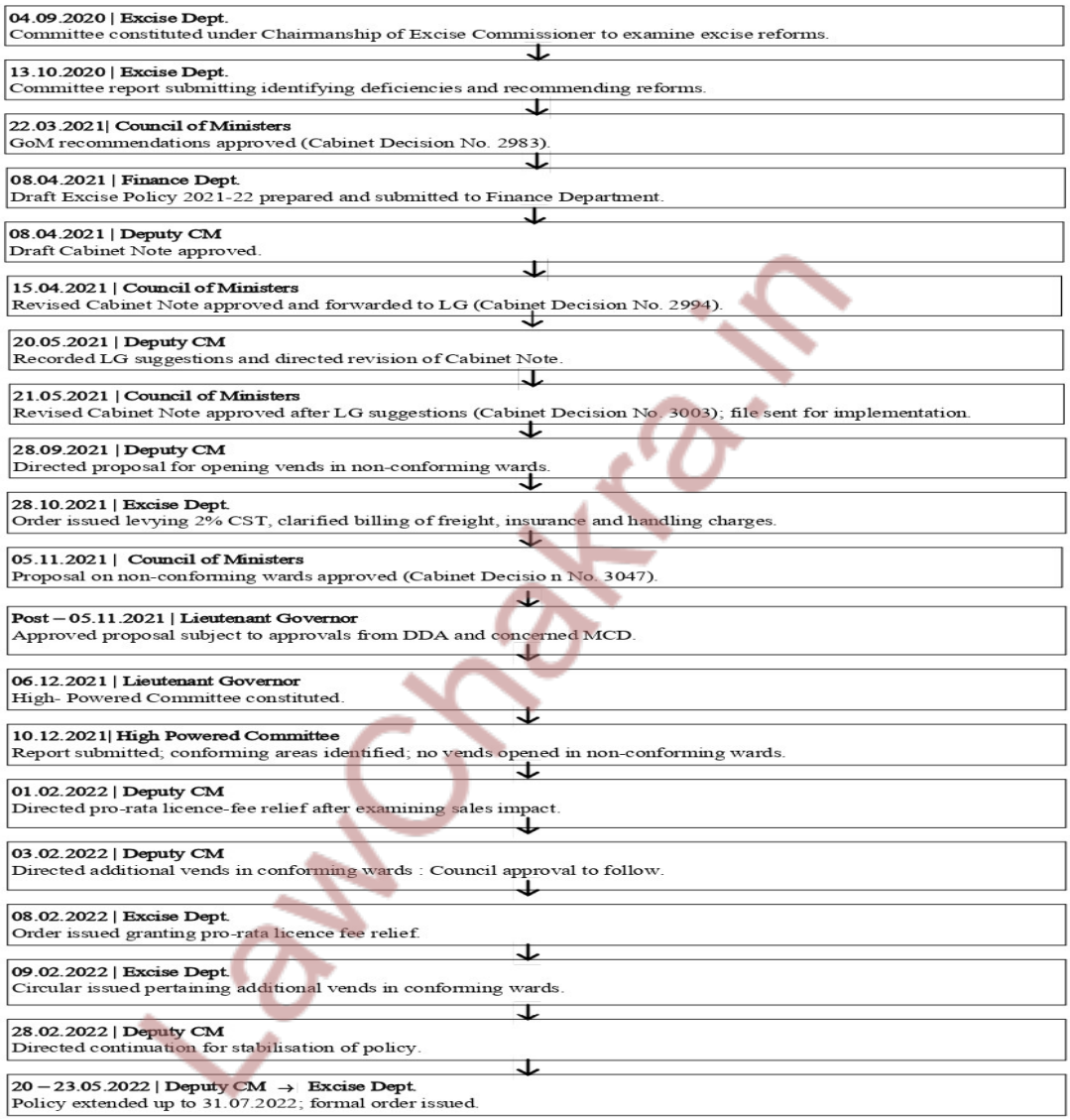
Excise Policy 2021-22 : Date → Authority → Decision (Administrative Chain)



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(i) Allegation Regarding Suggestions Attributed to the Hon'ble Lieutenant Governor (Qua A-8)

241. Turning now to the allegations against A-8, the Court first considers the issue arising from the statement of Sh. Anil Baijal

(PW-86), who was the Hon'ble LG at the relevant time when the DEP-21/22 was under formulation.

242. The prosecution case is that although the concerned file, along with notings, was sent to the office of the Hon'ble LG for his views, only one suggestion was in fact made by him. It is alleged, however, that seven suggestions were subsequently reflected as having been proposed by the Hon'ble LG. This forms a central plank of the prosecution's case on the aspect of alleged manipulation.

243. The allegation assumes significance, as it concerns the acts and recorded views of a constitutional authority and places two versions in direct contest. The matter therefore requires careful scrutiny, particularly at the stage where the Court is required to examine whether the material on record discloses grounds to proceed further in accordance with law.

244. The statement of the Hon'ble LG, examined as PW-86, is of primary relevance and must be read along with the contemporaneous official record. Equally material are the statements of the senior officers associated with the Lieutenant Governor's Secretariat, namely PW-87 (Smt. Ankita Mishra Bundela, Secretary to the Hon'ble LG) and PW-88 (Sh. Ajay Kumar, Additional Secretary to the Hon'ble LG), who were entrusted with the examination, movement and recording of file notings in the ordinary course of governmental business.

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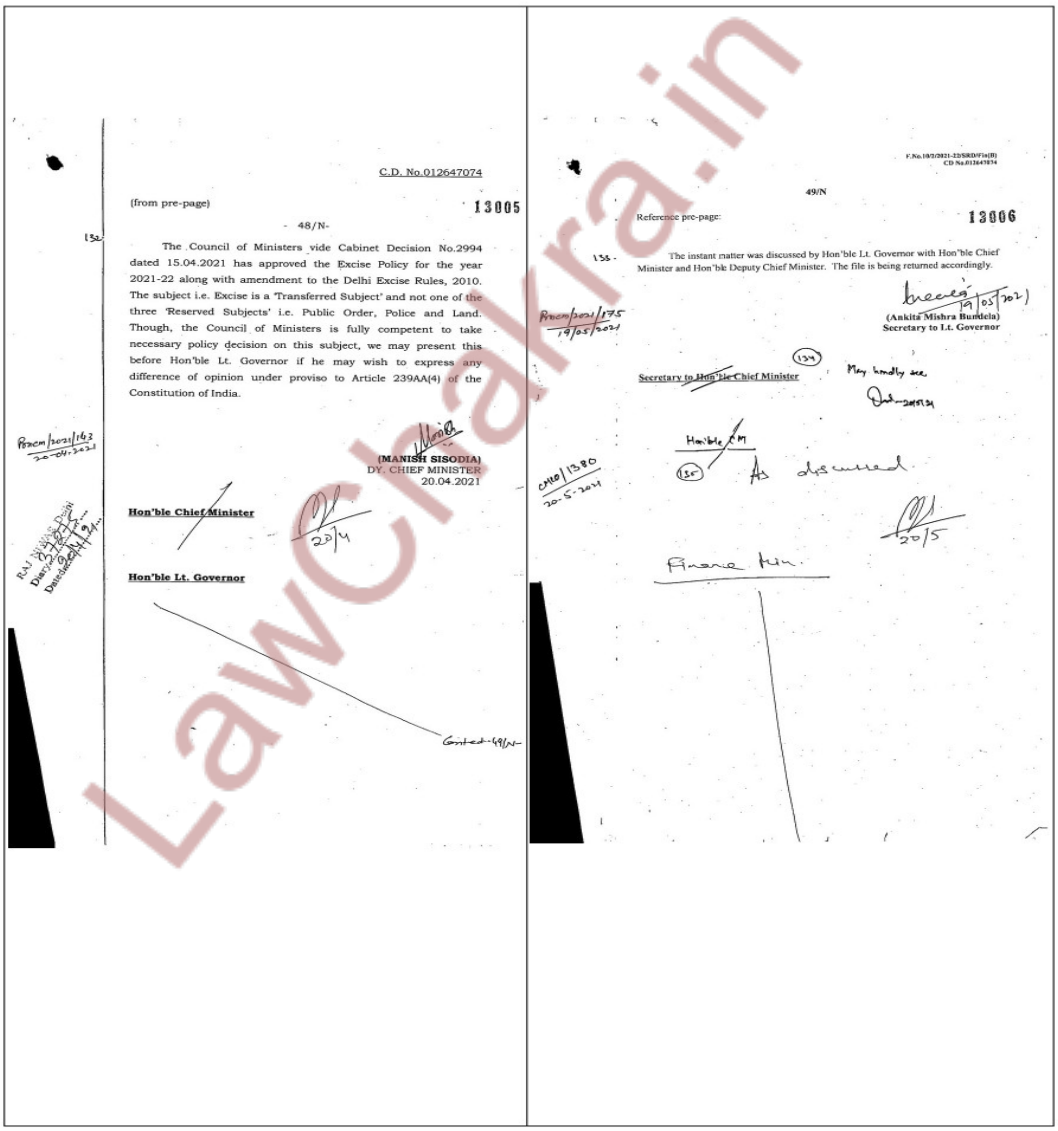
245. Before adverting to the statements of the witnesses bearing on the present allegation, it would be apposite to reproduce the relevant file notings as contained in D-138. For ease of reference, the scanned notings relating to the above discussion are set out below:-



C.D. No.012647074

(from pre-page) 13005

- 48/N-

The Council of Ministers vide Cabinet Decision No.2994 dated 15.04.2021 has approved the Excise Policy for the year 2021-22 along with amendment to the Delhi Excise Rules, 2010. The subject i.e. Excise is a 'Transferred Subject' and not one of the three 'Reserved Subjects' i.e. Public Order, Police and Land. Though, the Council of Ministers is fully competent to take necessary policy decision on this subject, we may present this before Hon'ble Lt. Governor if he may wish to express any difference of opinion under proviso to Article 239AA(4) of the Constitution of India.

(MANISH SISODIA)
DY. CHIEF MINISTER
20.04.2021

Hon'ble Chief Minister

Hon'ble Lt. Governor

Contd-49/N

49/N

Reference pre-page: 13006

The instant matter was discussed by Hon'ble Lt. Governor with Hon'ble Chief Minister and Hon'ble Deputy Chief Minister. The file is being returned accordingly.

(Ankita Mishra Bundela)
Secretary to Lt. Governor

Secretary to Hon'ble Chief Minister

May kindly see.

Hon'ble CM

As discussed

Finance Min.

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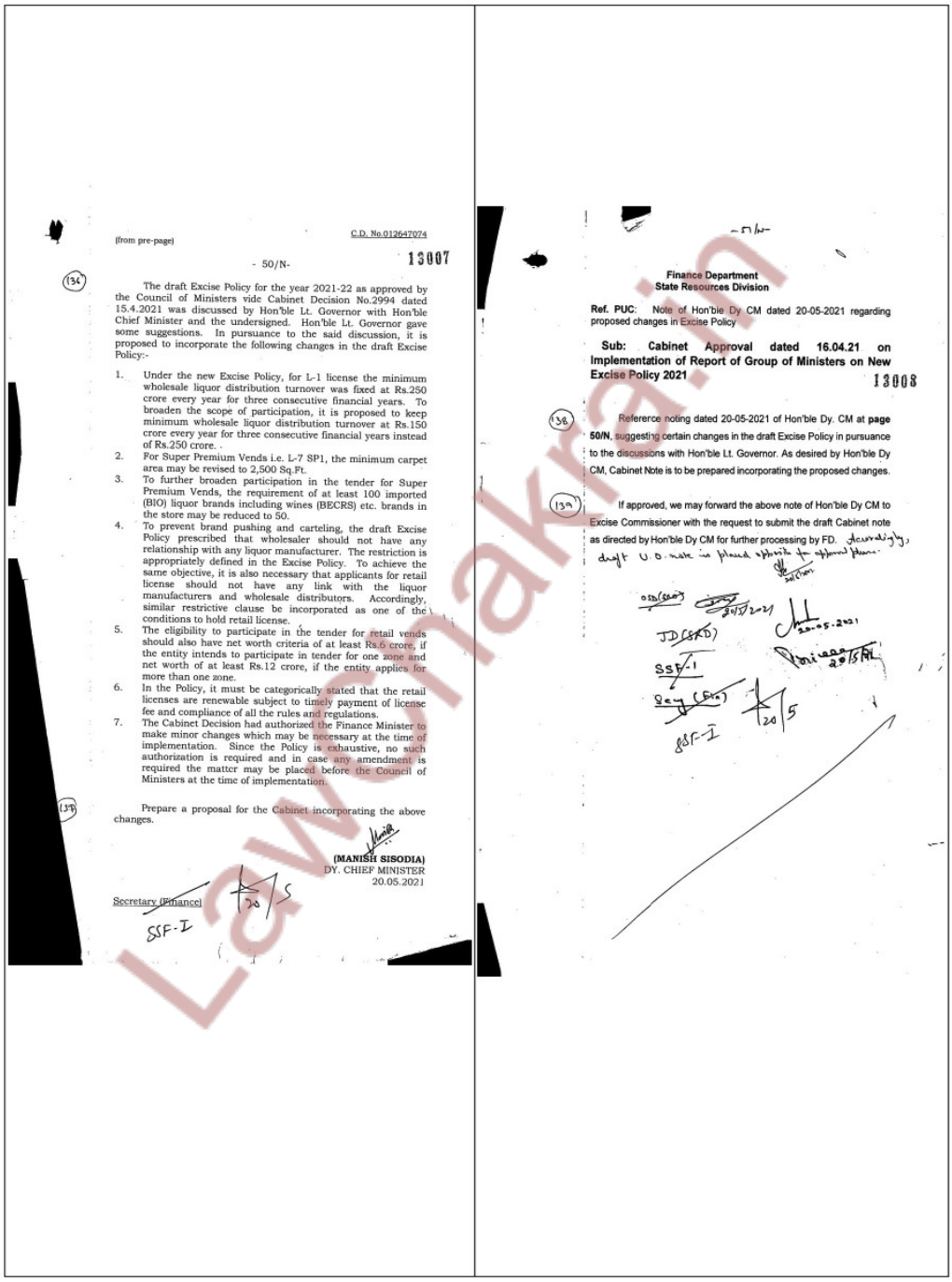

(from pre-page) C.D. No.012647074

- 50/N- 13007

(136)

The draft Excise Policy for the year 2021-22 as approved by the Council of Ministers vide Cabinet Decision No.2994 dated 15.4.2021 was discussed by Hon'ble Lt. Governor with Hon'ble Chief Minister and the undersigned. Hon'ble Lt. Governor gave some suggestions. In pursuance to the said discussion, it is proposed to incorporate the following changes in the draft Excise Policy:-

1. Under the new Excise Policy, for L-1 license the minimum wholesale liquor distribution turnover was fixed at Rs.250 crore every year for three consecutive financial years. To broaden the scope of participation, it is proposed to keep minimum wholesale liquor distribution turnover at Rs.150 crore every year for three consecutive financial years instead of Rs.250 crore. .
2. For Super Premium Vends i.e. L-7 SP1, the minimum carpet area may be revised to 2,500 Sq.Ft.
3. To further broaden participation in the tender for Super Premium Vends, the requirement of at least 100 imported (BIO) liquor brands including wines (BECRS) etc. brands in the store may be reduced to 50.
4. To prevent brand pushing and carteling, the draft Excise Policy prescribed that wholesaler should not have any relationship with any liquor manufacturer. The restriction is appropriately defined in the Excise Policy. To achieve the same objective, it is also necessary that applicants for retail license should not have any link with the liquor manufacturers and wholesale distributors. Accordingly, similar restrictive clause be incorporated as one of the conditions to hold retail license.
5. The eligibility to participate in the tender for retail vends should also have net worth criteria of at least Rs.6 crore, if the entity intends to participate in tender for one zone and net worth of at least Rs.12 crore, if the entity applies for more than one zone.
6. In the Policy, it must be categorically stated that the retail licenses are renewable subject to timely payment of license fee and compliance of all the rules and regulations.
7. The Cabinet Decision had authorized the Finance Minister to make minor changes which may be necessary at the time of implementation. Since the Policy is exhaustive, no such authorization is required and in case any amendment is required the matter may be placed before the Council of Ministers at the time of implementation.

(137) Prepare a proposal for the Cabinet incorporating the above changes.

(MANISH SISODIA)
DY. CHIEF MINISTER
20.05.2021

Secretary (Finance)

SSF-I

Finance Department
State Resources Division

Ref. PUC: Note of Hon'ble Dy CM dated 20-05-2021 regarding proposed changes in Excise Policy

Sub: Cabinet Approval dated 16.04.21 on Implementation of Report of Group of Ministers on New Excise Policy 2021 13008

(138) Reference noting dated 20-05-2021 of Hon'ble Dy. CM at **page 50/N**, suggesting certain changes in the draft Excise Policy in pursuance to the discussions with Hon'ble Lt. Governor. As desired by Hon'ble Dy CM, Cabinet Note is to be prepared incorporating the proposed changes.

(139) If approved, we may forward the above note of Hon'ble Dy CM to Excise Commissioner with the request to submit the draft Cabinet note as directed by Hon'ble Dy CM for further processing by FD. Accordingly, draft U.O. note is placed submit for approval please.

OSD(SSF) 20/5/2021

JD(SSF) 20.05.2021

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Dy. (SSF) 20/5

SSF-I

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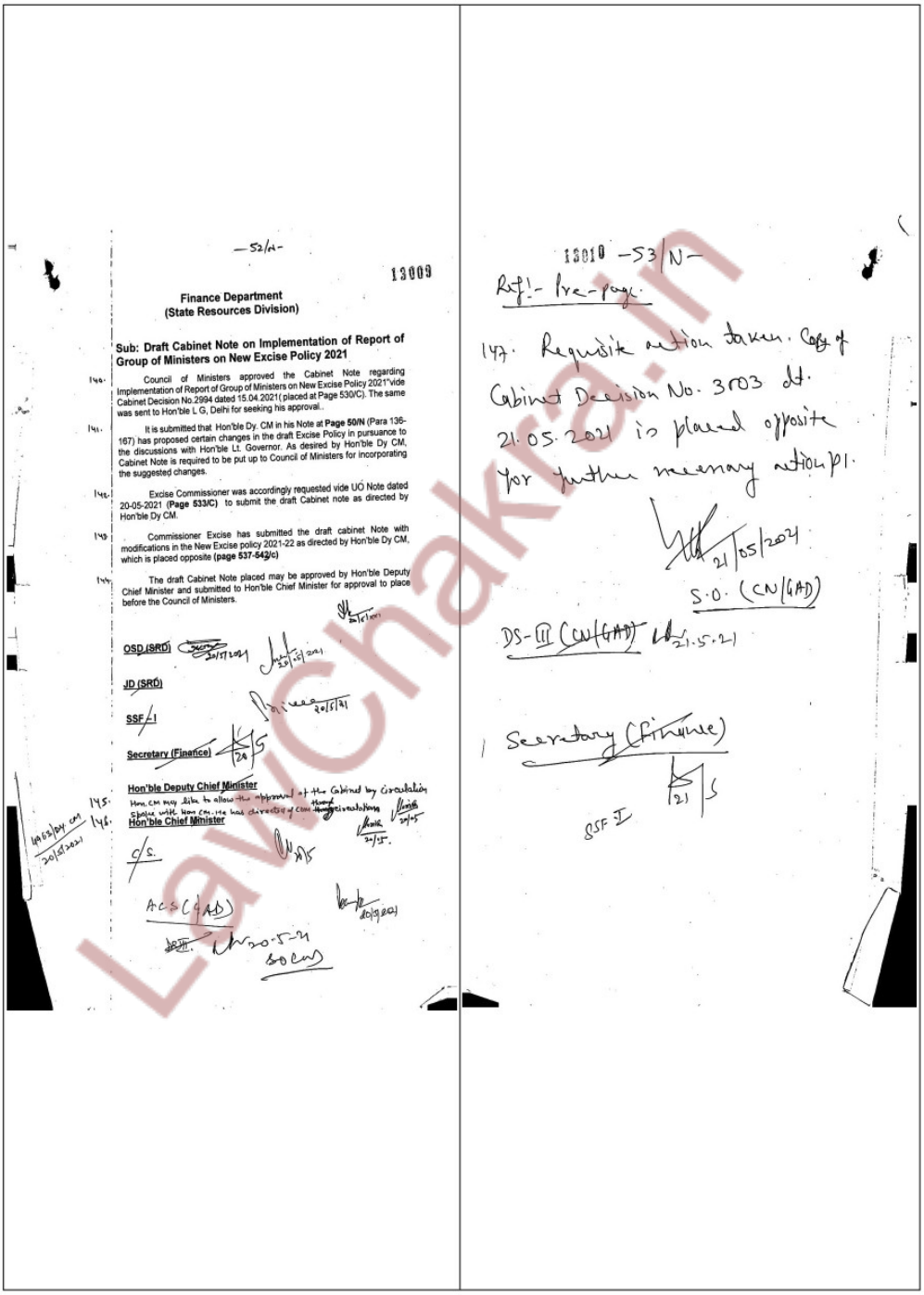

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13009

Finance Department
(State Resources Division)

Sub: Draft Cabinet Note on Implementation of Report of Group of Ministers on New Excise Policy 2021

140. Council of Ministers approved the Cabinet Note regarding Implementation of Report of Group of Ministers on New Excise Policy 2021"vide Cabinet Decision No.2994 dated 15.04.2021(placed at Page 530/C). The same was sent to Hon'ble L G, Delhi for seeking his approval..

141. It is submitted that Hon'ble Dy. CM in his Note at **Page 50/N** (Para 136-167) has proposed certain changes in the draft Excise Policy in pursuance to the discussions with Hon'ble Lt. Governor. As desired by Hon'ble Dy CM, Cabinet Note is required to be put up to Council of Ministers for incorporating the suggested changes.

142. Excise Commissioner was accordingly requested vide UO Note dated 20-05-2021 **(Page 533/C)** to submit the draft Cabinet note as directed by Hon'ble Dy CM.

143. Commissioner Excise has submitted the draft cabinet Note with modifications in the New Excise policy 2021-22 as directed by Hon'ble Dy CM, which is placed opposite **(page 537-542/c)**

144. The draft Cabinet Note placed may be approved by Hon'ble Deputy Chief Minister and submitted to Hon'ble Chief Minister for approval to place before the Council of Ministers.

OSD (SRD) 20/5/2021

JD (SRD) 20/5/21

SSF-I 20/5/21

Secretary (Finance) 20/5

Hon'ble Deputy Chief Minister
Hon. CM may like to allow the approval of the Cabinet by circulation thereof
Since with Hon. CM. He has already given circulations
Hon'ble Chief Minister

145. 146. 19/5/21 by CM 20/05/2021

c/s.

ACS (GAD) 20-5-21

20/5/2021

13010 —53/N—

Ref:- Pre-page.

147. Requisite action taken. Copy of Cabinet Decision No. 3003 dt. 21.05.2021 is placed opposite for further necessary action pl.

21/05/2021

S.O. (CN/GAD)

DS-III (CN/GAD) 21.5.21

Secretary (Finance)

21/5

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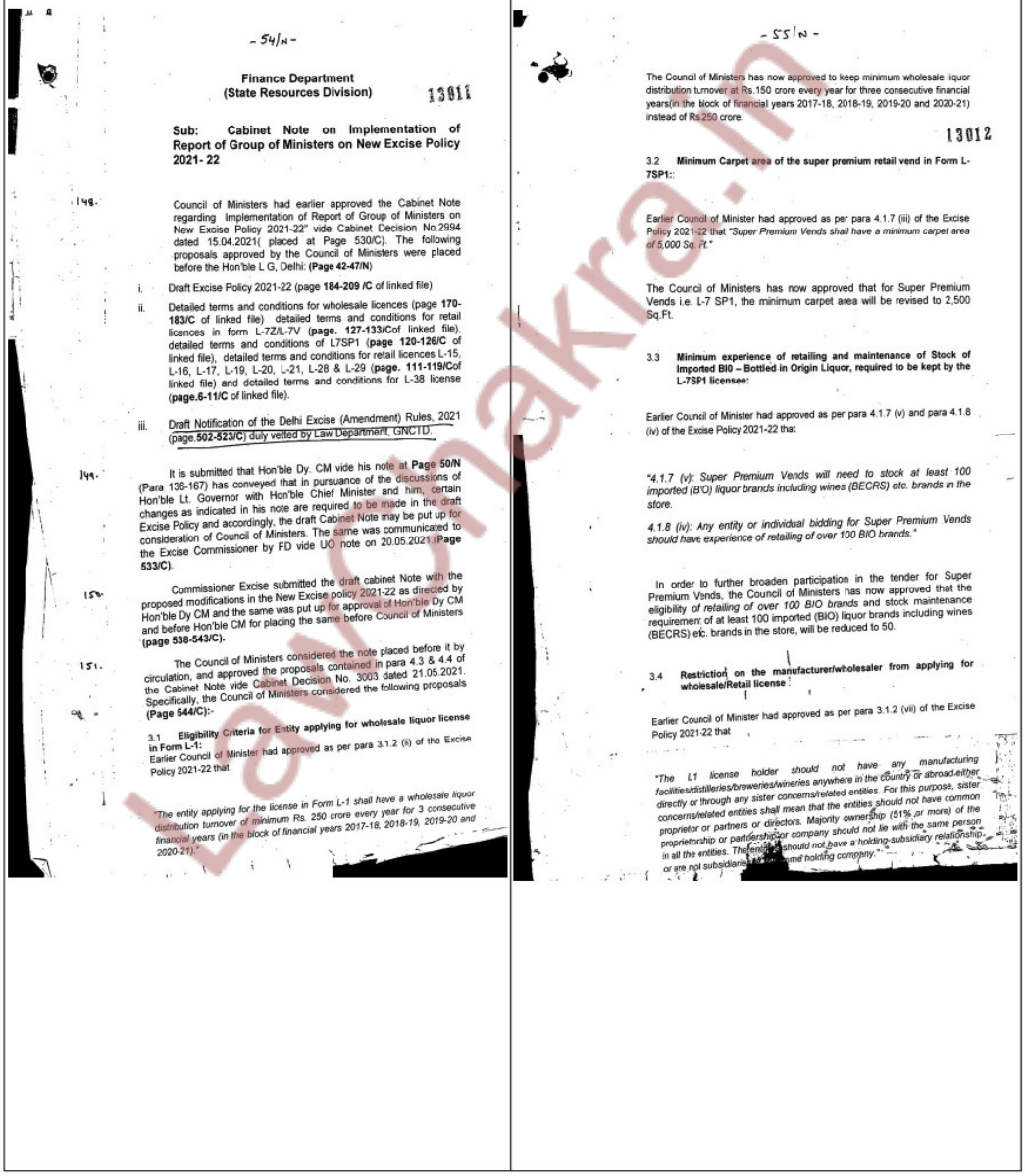

- 54/N -

Finance Department
(State Resources Division) 13011

Sub: Cabinet Note on Implementation of Report of Group of Ministers on New Excise Policy 2021- 22

148. Council of Ministers had earlier approved the Cabinet Note regarding Implementation of Report of Group of Ministers on New Excise Policy 2021-22" vide Cabinet Decision No.2994 dated 15.04.2021(placed at Page 530/C). The following proposals approved by the Council of Ministers were placed before the Hon'ble L G, Delhi: **(Page 42-47/N)**

i. Draft Excise Policy 2021-22 (page **184-209 /C** of linked file)

ii. Detailed terms and conditions for wholesale licences (page **170-183/C** of linked file) detailed terms and conditions for retail licences in form L-7Z/L-7V (**page. 127-133/C**of linked file), detailed terms and conditions of L7SP1 (**page 120-126/C** of linked file), detailed terms and conditions for retail licences L-15, L-16, L-17, L-19, L-20, L-21, L-28 & L-29 (**page. 111-119/C**of linked file) and detailed terms and conditions for L-38 license (**page.6-11/C** of linked file).

iii. Draft Notification of the Delhi Excise (Amendment) Rules, 2021 (page.**502-523/C**) duly vetted by Law Department, GNCTD.

149. It is submitted that Hon'ble Dy. CM vide his note at **Page 50/N** (Para 136-167) has conveyed that in pursuance of the discussions of Hon'ble Lt. Governor with Hon'ble Chief Minister and him, certain changes as indicated in his note are required to be made in the draft Excise Policy and accordingly, the draft Cabinet Note may be put up for consideration of Council of Ministers. The same was communicated to the Excise Commissioner by FD vide UO note on 20.05.2021 (**Page 533/C**).

150. Commissioner Excise submitted the draft cabinet Note with the proposed modifications in the New Excise policy 2021-22 as directed by Hon'ble Dy CM and the same was put up for approval of Hon'ble Dy CM and before Hon'ble CM for placing the same before Council of Ministers **(page 538-543/C).**

151. The Council of Ministers considered the note placed before it by circulation, and approved the proposals contained in para 4.3 & 4.4 of the Cabinet Note vide Cabinet Decision No. 3003 dated 21.05.2021. Specifically, the Council of Ministers considered the following proposals **(Page 544/C)**:-

3.1 **Eligibility Criteria for Entity applying for wholesale liquor license in Form L-1:**
Earlier Council of Minister had approved as per para 3.1.2 (ii) of the Excise Policy 2021-22 that

"The entity applying for the license in Form L-1 shall have a wholesale liquor distribution turnover of minimum Rs. 250 crore every year for 3 consecutive financial years (in the block of financial years 2017-18, 2018-19, 2019-20 and 2020-21)."

- 55/N -

The Council of Ministers has now approved to keep minimum wholesale liquor distribution turnover at Rs.150 crore every year for three consecutive financial years(in the block of financial years 2017-18, 2018-19, 2019-20 and 2020-21) instead of Rs.250 crore.

13012

3.2 **Mininum Carpet area of the super premium retail vend in Form L-7SP1::**

Earlier Council of Minister had approved as per para 4.1.7 (iii) of the Excise Policy 2021-22 that *"Super Premium Vends shall have a minimum carpet area of 5,000 Sq. Ft."*

The Council of Ministers has now approved that for Super Premium Vends i.e. L-7 SP1, the minimum carpet area will be revised to 2,500 Sq.Ft.

3.3 **Mininum experience of retailing and maintenance of Stock of Imported BI0 – Bottled in Origin Liquor, required to be kept by the L-7SP1 licensee:**

Earlier Council of Minister had approved as per para 4.1.7 (v) and para 4.1.8 (iv) of the Excise Policy 2021-22 that

"4.1.7 (v): Super Premium Vends will need to stock at least 100 imported (BIO) liquor brands including wines (BECRS) etc. brands in the store.

4.1.8 (iv): Any entity or individual bidding for Super Premium Vends should have experience of retailing of over 100 BIO brands."

In order to further broaden participation in the tender for Super Premium Vends, the Council of Ministers has now approved that the eligibility of retailing of over 100 BIO brands and stock maintenance requirement of at least 100 imported (BIO) liquor brands including wines (BECRS) etc. brands in the store, will be reduced to 50.

3.4 **Restriction on the manufacturer/wholesaler from applying for wholesale/Retail license :**

Earlier Council of Minister had approved as per para 3.1.2 (vii) of the Excise Policy 2021-22 that

"The L1 license holder should not have any manufacturing facilities/distilleries/breweries/wineries anywhere in the country or abroad,either directly or through any sister concerns/related entities. For this purpose, sister concerns/related entities shall mean that the entities should not have common proprietor or partners or directors. Majority ownership (51% or more) of the proprietorship or partnership or company should not lie with the same person in all the entities. The entities should not have a holding-subsidiary relationship or are not subsidiaries of the same holding company."

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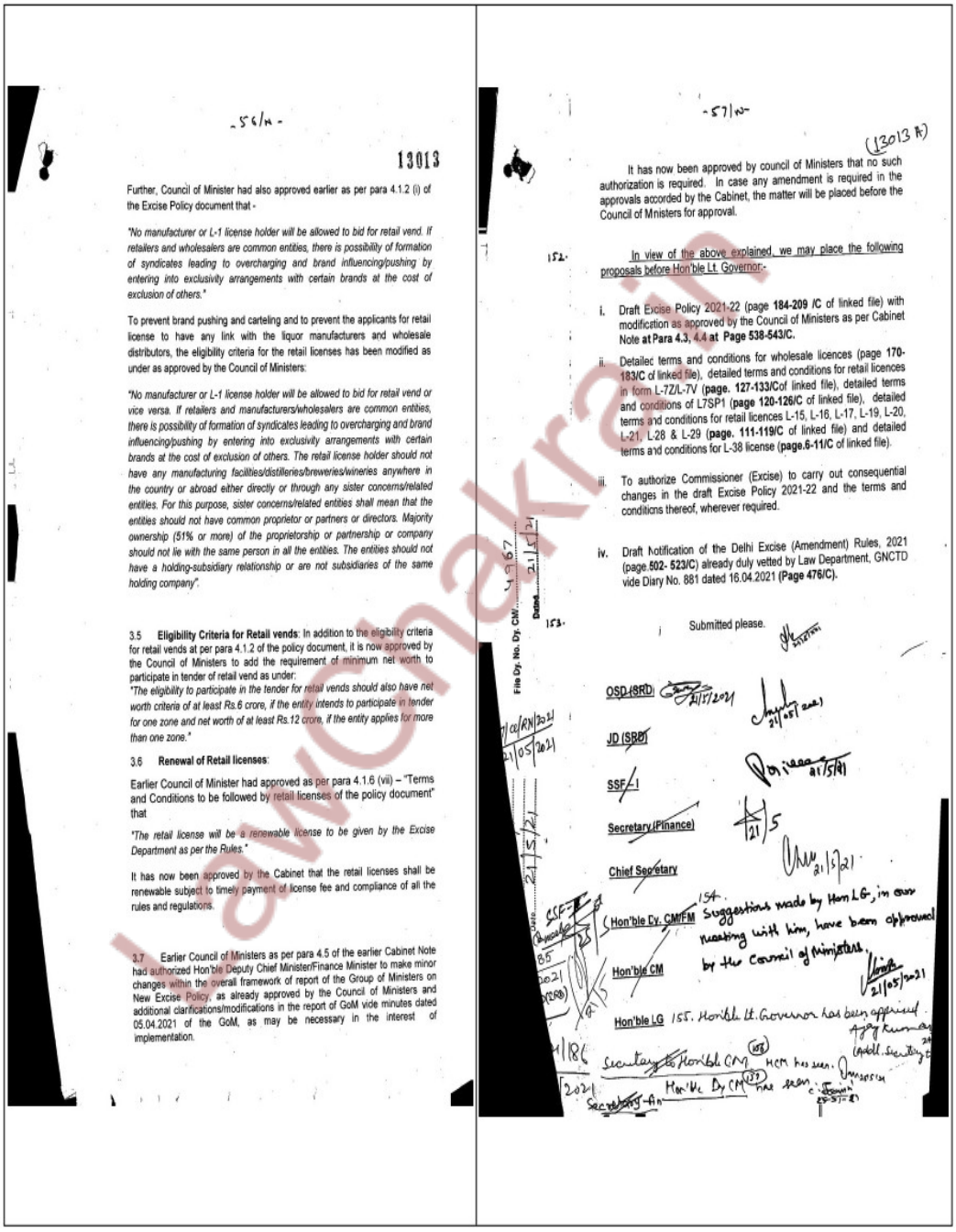

-56/N-

13013

Further, Council of Minister had also approved earlier as per para 4.1.2 (i) of the Excise Policy document that -

"No manufacturer or L-1 license holder will be allowed to bid for retail vend. If retailers and wholesalers are common entities, there is possibility of formation of syndicates leading to overcharging and brand influencing/pushing by entering into exclusivity arrangements with certain brands at the cost of exclusion of others."

To prevent brand pushing and carteling and to prevent the applicants for retail license to have any link with the liquor manufacturers and wholesale distributors, the eligibility criteria for the retail licenses has been modified as under as approved by the Council of Ministers:

"No manufacturer or L-1 license holder will be allowed to bid for retail vend or vice versa. If retailers and manufacturers/wholesalers are common entities, there is possibility of formation of syndicates leading to overcharging and brand influencing/pushing by entering into exclusivity arrangements with certain brands at the cost of exclusion of others. The retail license holder should not have any manufacturing facilities/distilleries/breweries/wineries anywhere in the country or abroad either directly or through any sister concerns/related entities. For this purpose, sister concerns/related entities shall mean that the entities should not have common proprietor or partners or directors. Majority ownership (51% or more) of the proprietorship or partnership or company should not lie with the same person in all the entities. The entities should not have a holding-subsidiary relationship or are not subsidiaries of the same holding company".

3.5 **Eligibility Criteria for Retail vends**: In addition to the eligibility criteria for retail vends at per para 4.1.2 of the policy document, it is now approved by the Council of Ministers to add the requirement of minimum net worth to participate in tender of retail vend as under:
"The eligibility to participate in the tender for retail vends should also have net worth criteria of at least Rs.6 crore, if the entity intends to participate in tender for one zone and net worth of at least Rs.12 crore, if the entity applies for more than one zone."

3.6 **Renewal of Retail licenses**:

Earlier Council of Minister had approved as per para 4.1.6 (vii) – "Terms and Conditions to be followed by retail licenses of the policy document" that

"The retail license will be a renewable license to be given by the Excise Department as per the Rules."

It has now been approved by the Cabinet that the retail licenses shall be renewable subject to timely payment of license fee and compliance of all the rules and regulations.

3.7 Earlier Council of Ministers as per para 4.5 of the earlier Cabinet Note had authorized Hon'ble Deputy Chief Minister/Finance Minister to make minor changes within the overall framework of report of the Group of Ministers on New Excise Policy, as already approved by the Council of Ministers and additional clarifications/modifications in the report of GoM vide minutes dated 05.04.2021 of the GoM, as may be necessary in the interest of implementation.

-57/N-

(13013 R)

It has now been approved by council of Ministers that no such authorization is required. In case any amendment is required in the approvals accorded by the Cabinet, the matter will be placed before the Council of Mnisters for approval.

152. In view of the above explained, we may place the following proposals before Hon'ble Lt. Governor:-

i. Draft Excise Policy 2021-22 (page **184-209 /C** of linked file) with modification as approved by the Council of Ministers as per Cabinet Note **at Para 4.3, 4.4 at Page 538-543/C.**

ii. Detailed terms and conditions for wholesale licences (page **170-183/C** of linked file), detailed terms and conditions for retail licences in form L-7Z/L-7V (**page. 127-133/C**of linked file), detailed terms and conditions of L7SP1 (**page 120-126/C** of linked file), detailed terms and conditions for retail licences L-15, L-16, L-17, L-19, L-20, L-21, L-28 & L-29 (**page. 111-119/C** of linked file) and detailed terms and conditions for L-38 license (**page.6-11/C** of linked file).

iii. To authorize Commissioner (Excise) to carry out consequential changes in the draft Excise Policy 2021-22 and the terms and conditions thereof, wherever required.

iv. Draft Notification of the Delhi Excise (Amendment) Rules, 2021 (page.**502- 523/C**) already duly vetted by Law Department, GNCTD vide Diary No. 881 dated 16.04.2021 **(Page 476/C).**

153. Submitted please.

File Dy. No. Dy. CM/ 4967 Dated 21/5/21

OSD (SRD) 21/5/2021

JD (SRD)

SSF-I 21/5/21

Secretary (Finance) 21/5

Chief Secretary 21/5/21

Hon'ble Dy. CM/FM 154. Suggestions made by Hon LG, in our meeting with him, have been approved by the Council of Ministers. 21/05/2021

Hon'ble CM

Hon'ble LG 155. Hon'ble Lt. Governor has been apprised. Ajay Kumar (Addl. Secretary-II)

Secretary to Hon'ble CM (108) HCM has seen.

Hon'ble Dy CM (109) has seen.

Secretary-II

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246. PW-88, who was directly responsible for the examination and movement of the file, explains the constitutional framework governing the subject in the following terms:

"…Excise comes under the 'Transferred Subject', which comes under the domain of GNCT of Delhi as per the provisions of Article 239 AA of the Constitution of India. Further, as per Sub-Clause (4) of the Article 239 AA of the Constitution of India, in case of difference of opinion between the Lieutenant Governor and his Ministers on any matter, the Lieutenant Governor shall refer it to the President for decision and act according to the decision given thereon by the President and pending such decision it shall be competent for the Lieutenant Governor in any case where the matter, in his opinion, is so urgent that it is necessary for him to take immediate action, to take such action or to give such direction in the matter as he deems necessary…."

247. He further clarifies, with reference to Rule 23(viii) of the Transaction of Business Rules, that the submission of matters of administrative importance to the Lieutenant Governor is contemplated by the Rules: *"…On being asked, I have to say that as per Rule 23 (viii) of Transaction of Business of the Government of National Capital Territory of Delhi Rules 1993, any proposal or matter of administrative importance which the Chief Minister may consider*

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necessary can be submitted to the Lieutenant Governor through the Chief Secretary and the Chief Minister before issuing any orders thereon."

248. Thus, the forwarding of the file to the Lieutenant Governor cannot be characterised as extraordinary; it was consistent with the governing Rules.

249. PW-88 also describes the procedure adopted during the Covid period for file processing within the LG Secretariat: *"…..considering his health condition, necessary precautions were taken while processing the files received in the LG Secretariat for the perusal / approval of the Hon'ble LG. During this period, after receiving any file in the LG Secretariat for perusal / approval of the Hon'ble LG, generally the same used to be analyzed and processed by the concerned staff officer with assistance of the concerned section. However, physical files were normally not used to be sent to the Hon'ble LG. Instead of the same, internal notes used to be prepared and processed on the computer system (Google docs) by the staff officer to the Secretary / Principal Secretary to LG. The internal notes used to include the brief of proposal, preliminary scrutiny of the proposal, if required, legal aspects if any etc. The internal notes used to be sent through Google docs to the Hon'ble LG by me through the Principal Secretary/Secretary to Hon'ble LG. Then, as per the directions/approval of the Hon'ble LG, the decisions/observations*

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were used to be conveyed on the physical file to the concerned department/Minister/CS by the Senior Officers of LG Secretariat. The hard copies of the internal notes containing directions/approval of the Hon'ble LG used to be kept in the records in the LG Secretariat. I have to further say that on some occasions, keeping in view the requirement and the urgency of the matters, some physical files were also used to be sent to the Hon'ble LG for his perusal / signature."

250. PW-88, in his statement, supports the administrative sequence reflected from the record and explains the manner in which files were handled during the relevant period. He states that, owing to the Covid-19 situation, internal processing was largely undertaken in digital form instead of the usual physical circulation of files. Proposal briefs, scrutiny notes and legal comments were prepared electronically and forwarded to the office of the Hon'ble LG through the Principal Secretary/Secretary concerned. He further clarifies that the internal notes were first generated and shared digitally, and upon receipt of directions or approval, the same were printed and placed in the physical file. The hard copies containing such directions were retained as part of the official record in the ordinary course.

251. The statement of PW-88, therefore, indicates that the procedure adopted during that period involved digital transmission followed by physical incorporation in the file, consistent with

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administrative functioning under the constraints prevailing at the time.

252. PW-87 corroborates this institutional engagement. She further states: *"The proposed excise policy was deliberated in detail in the LG Secretariat and the apparent deficiencies in the policy were discussed with Hon'ble LG in multiple meetings along with the officers of the LG Secretariat.".* She clarifies: *"I also state that informal discussion notes were prepared by the LG Secretariat for the discussion. However, as far as I remember, such notes for discussion, being informal, are generally not kept on record."*

253. This part of the statement indicates that multiple meetings took place and the excise policy was deliberated in detail.

254. Significantly, PW-87 also states that on 19.05.2021, the Hon'ble LG informed her that the matter had been discussed with the Hon'ble Chief Minister and the Hon'ble Deputy Chief Minister and that the policy could not be concurred with in its present form, pursuant to which she returned the file with the contemporaneous noting: *"The instant matter was discussed by Hon'ble Lt. Governor with Hon'ble Chief Minister and Hon'ble Deputy CM. The file is being returned accordingly.*"

255. Although PW-87 clarifies that she *"was not privy to the discussion,"* her official noting remains the sole contemporaneous

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documentary record of the outcome of that discussion. This contemporaneous endorsement assumes significance, as it evidences consultation at the highest executive level prior to further processing.

256. Similarly, PW-88 states: *"In the said file, there was a note put up by Dy.CM Sh. Manish Sisodia, Dy.CM on 20.05.2021, in which he mentioned seven points to be incorporated in the draft Excise Policy in pursuance of discussions among Hon'ble LG, Hon'ble CM and Dy. CM. In the said Note, Dy. CM asked Secretary Finance to prepare a proposal for the Cabinet incorporating the seven changes and marked the file to the Secretary Finance. Thereafter, fresh approval of the Council of Ministers was taken on the Cabinet Note and on 21.05.2021, Dy. CM noted in the file that "suggestions made by Hon'ble LG, in our meeting with him, have been approved by the Council of Ministers" and sent the file to CM, who marked the file to Hon'ble LG on the same day, i.e., 21.05.2021. On 24.05.2021, I as Additional Secretary to the Hon'ble LG noted in the file that "Hon'ble LG has been apprised" and sent the file to Secretary to CM for further necessary action."*

257. PW-88 further states that the note dated 20.05.2021 recorded by the Deputy Chief Minister reflected points arising out of discussions held with the Hon'ble LG and the Worthy Chief Minister. He deposes that on 21.05.2021 it was noted that the suggestions attributed to the Hon'ble LG had received approval of the Council of

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Ministers. The file was thereafter returned on 24.05.2021 with the endorsement, *"Hon'ble LG has been apprised."*

258. This sequence of contemporaneous notings indicates that the inputs were treated within the administrative record as having emanated from the Hon'ble LG and were processed accordingly in the course of official decision-making. PW-88 and PW-87 both confirm the receipt and return of the file with the endorsement *"Hon'ble LG has been apprised."* The documentary trail thus consistently reflects that seven suggestions were recorded as having arisen from discussions and were thereafter incorporated upon approval by the Council of Ministers.

259. Significantly, neither PW-87 nor PW-88 has disputed the contents of these notings. The record further shows that the file remained under consideration in the LG Secretariat for a considerable duration, indicating institutional scrutiny rather than mechanical processing. Upon return of the file, it was categorically recorded that the suggestions stood incorporated in the policy, and the Deputy Chief Minister expressly noted their approval by the Council of Ministers. The subsequent endorsement *"Hon'ble LG has been apprised,"* recorded by PW-88 in discharge of official duty, demonstrates that the developments were communicated and placed before the Hon'ble LG. No allegation of fabrication, interpolation or tampering of these notings has been made by any witness.

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260. It further emerges that the Excise Policy file was received in the LG Secretariat on multiple subsequent occasions, namely on 09.11.2021, 30.11.2021, 01.04.2022 and 05.04.2022; yet, no contemporaneous objection was recorded disputing the reference to seven suggestions.

261. The next question that arises for consideration concerns the impact of the denial attributed to the Hon'ble LG in respect of the six suggestions alleged not to have emanated from him. This aspect must be examined within the confined scope of scrutiny permissible at the stage of framing of charge. At this juncture, the Court is not expected to undertake an exhaustive assessment of rival versions; its inquiry is limited to examining whether the material placed on record, if accepted at face value, warrants further consideration in accordance with law.

262. Viewed in that light, the contemporaneous official notings assume central significance. The record contains specific endorsements and entries made in the regular course of governmental functioning, forming part of the official file. Equally relevant are the statements of the officers who dealt with and processed the file in the LG Secretariat. Their depositions, rendered in discharge of official duties, and the official notings recorded by them, do not support the version now attributed to the Hon'ble LG. On the contrary, they reflect

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a consistent administrative narrative that discussions were held and that consequential entries were made in the file.

263. The core question, therefore, is whether the Hon'ble LG can be permitted, in law, to deny the contents of official notings which stand explained, processed and effectively accepted by PW-87 and PW-88 in their statements. When the officers who handled the file have categorically spoken to the notings and have not alleged any fabrication or misattribution, the permissibility of a subsequent denial must be examined against the binding evidentiary value of the official record.

(emphasis supplied)

264. In the limited enquiry permissible at this stage, where the Court is not to weigh evidence, but only to ascertain whether the material discloses a prima facie position, the contemporaneous documentary trail and the consistent statements of the officers dealing with the file assume determinative significance. Where the official record and the version of the responsible officers run contrary to the subsequent denial, the latter cannot be viewed in isolation from the institutional record.

265. The notings forming part of the governmental file are official records maintained in the regular course of business by a public authority. They fall within the ambit of public documents as

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contemplated under Section 74 of the Indian Evidence Act, 1872. Section 35 of the Act, 1872 as under:

> *"An entry in any public or other official book, register or record, stating a fact in issue or relevant fact, and made by a public servant in the discharge of his official duty, or by any other person in performance of a duty specially enjoined by the law of the country in which such book, register or record is kept, is itself a relevant fact."*

266. Certified copies thereof are admissible under Sections 76 and 77. The entries in the present file were made by public servants while discharging official functions and form part of a regularly maintained governmental record. They record, contemporaneously, the movement of the file, the noting of suggestions and the endorsements made in the course of decision-making. Such entries, having been made in discharge of official duty, attract the statutory recognition contemplated under Section 35.

267. Once the record is produced from proper custody and no plea of fabrication, interpolation or tampering is raised, its existence and tenor cannot be brushed aside. The weight to be attached to the contents is a matter of appreciation; however, the authenticity of an official record maintained in the ordinary course of governmental business cannot be casually disputed. In the absence of any challenge to its genuineness, the contemporaneous notings stand unimpeached and cannot be displaced at a later stage by a mere oral variation.

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268. The evidentiary scheme of the Indian Evidence Act reinforces this position. Where the terms of a transaction, deliberation or official act have been reduced to writing, the document itself constitutes the best evidence of its contents. It is well-settled principle that when the contents of a document are in issue, oral evidence cannot be admitted to contradict, vary, add to or subtract from the written record, save in limited circumstances specifically provided by law. The official file notings in the present case are contemporaneous, authenticated and form part of the statutory record of governmental functioning. They expressly record that discussions took place with the Hon'ble LG and that *"suggestions"* emanating from such discussions were incorporated and approved.

269. In the absence of any plea of fabrication, interpolation or want of authority, the law does not permit the contents of such a document to be nullified by a subsequent oral denial. An oral statement disputing the existence or number of suggestions, when the written record speaks otherwise, cannot override the documentary evidence. The proper course, if the record were inaccurate, would have been to challenge its authenticity or to plead and prove tampering. No such case is set up.

270. Accordingly, so long as the official notings remain unchallenged in their genuineness, a mere oral assertion that only one suggestion was made cannot be treated as legally sufficient to displace

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a written record that reflects seven suggestions having been discussed and incorporated. The law accords primacy to the document itself. The statement of the Hon'ble LG disputing the seven suggestions, in the face of the contemporaneous official record, cannot therefore prevail in law over the contents of the document.

(emphasis supplied)

271. PW-86, while stating that he did not issue *"suggestions"* in the sense of prescribing policy clauses or commercial parameters, does not deny that observations or views were conveyed during scrutiny. His statement, read harmoniously with the documentary record, can only be understood in the limited sense that he did not dictate commercial specifics. It cannot be read as a negation of the deliberative inputs contemporaneously recorded by PW-87 and PW-88. Where the terms of a transaction or event are reduced to writing, the document itself constitutes the best and exclusive evidence of its contents. The official file notings, contemporaneous and authenticated, expressly record that discussions took place with the Hon'ble LG and that *"suggestions"* emanating from such discussions were approved by the Council of Ministers. Any subsequent oral assertion that no suggestion was given cannot, in law, override or contradict this written record, particularly at the threshold stage of framing of charge.

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272. The administrative engagement of the Hon'ble LG did not cease with policy formulation. The subsequent handling of files relating to L-7 vends in non-conforming areas, where the Hon'ble LG imposed conditions regarding DDA/MCD approvals, responded to further notes of the Deputy Chief Minister, and constituted committees, demonstrates continued involvement in the implementation phase. When the file was again routed to the Hon'ble LG in relation to these matters, the earlier chain of notings remained intact and undisputed.

273. Even in the complaint dated 20.07.2022 (D-61) forwarded by the Hon'ble LG Shri V.K. Saxena, which preceded the registration of the FIR, there is no allegation that the suggestions were recorded without consultation or that the official notings were fabricated or misrepresented. The complaint does not allege any fabrication of the official notings. This omission assumes significance. If the contemporaneous official record reflecting consultation and apprisal is neither disowned nor challenged at the inception, the subsequent projection of unilateralism or concealment stands materially weakened. Juxtaposed with the statement of PW-3, Shri Praveen Kumar Rai, Director, Ministry of Home Affairs, who deposes that the Office Memorandum dated 22.07.2022 was issued for forwarding *"the complaint received from Hon'ble LG of GNCTD, Shri Vinai Kumar Saxena," to the Director, CBI "for necessary*

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action", it becomes evident that the very constitutional office that was institutionally involved in the policy process later initiated the complaint.

(emphasis supplied)

274. This aspect, though perhaps not decisive in isolation, assumes considerable importance when examined in the broader context of the prosecution's theory of conspiracy. The position taken by PW-86 must be viewed against the institutional and legal consequences that would inevitably follow from an unqualified acknowledgment that specific suggestions were made and subsequently incorporated. If it were to be accepted that seven suggestions emanated from the Hon'ble LG and were duly incorporated into the policy after discussion, then the deliberative process would stand institutionally shared. In that eventuality, any allegation that the incorporation of those suggestions formed part of a criminal design would logically extend to Sh. Anil Baijal, who was the constitutional authority and the Hon'ble LG at the relevant time, and to the officers of the LG Secretariat who processed, recorded and communicated those inputs.

275. This Court refrains from making any adverse observation against the office of the Hon'ble LG. The office is a constitutional one, and judicial restraint is both appropriate and necessary. However, when the statements of PW-87 and PW-88 are

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read conjointly and examined alongside the contemporaneous file record, a clear divergence becomes apparent. Both these witnesses were senior officers entrusted with the day-to-day functioning of the Secretariat and with supervising the movement and processing of official files. Their statements are in harmony with the notings recorded on the file in the ordinary course of official business. The sequence reflected in those notings, endorsement, consideration and onward transmission, stands explained by them as part of established administrative procedure carried out in discharge of official duty.

276. PW-86, who held the office of the Hon'ble LG at the relevant time, has stated a position which does not fully accord with the tenor of the official record as elucidated by the officers responsible for handling and maintaining the file. The divergence concerns the attribution and reflection of certain suggestions in the notings. At this juncture, the Court does not propose to enter into a deeper examination of that inconsistency. The present exercise is confined to the limited scrutiny permissible at the stage of framing of charge. The matter is, therefore, left at that, and the Court restricts itself to assessing whether the material on record, taken at face value, discloses grounds sufficient to proceed.

277. It is therefore not without significance that none of the witnesses from the LG Secretariat has alleged fabrication of the notings, nor has any plea been taken that the recorded endorsements

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were unauthorised or falsely attributed. A categorical admission that such suggestions were made and incorporated could potentially expose PW-86 to criminal scrutiny under the very theory now advanced. In that backdrop, a guarded or qualified denial cannot be viewed in isolation from the consequences that a contrary admission would entail.

278. Conversely, if the prosecution were to accept that the suggestions did, in fact, emanate from the Hon'ble LG and were formally incorporated following discussion and approval by the Council of Ministers, the foundational premise of unilateral manipulation stands fundamentally eroded. The theory of conspiracy, predicated upon concealment or misattribution of inputs, cannot logically survive if the official record reflects consultation, communication and institutional concurrence at the highest executive level. The prosecution cannot, on the one hand, rely upon the sanctity and authenticity of official records, and on the other, disown the same record when it evidences shared deliberation.

(emphasis supplied)

279. Thus, the matter presents a structural inconsistency in the prosecution narrative: either the suggestions were genuinely part of an institutional process, in which case the allegation of unilateral criminal design loses force; or the official record is to be doubted, in which event the prosecution would have to confront the far more serious

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implication of institutional falsification, a case neither pleaded nor supported by evidence. At the present stage, the contemporaneous documentary record, unchallenged in its authenticity, assumes primacy and substantially weakens the conspiracy theory as projected.

280. At the limited stage of consideration for framing of charge, the documentary trail and contemporaneous file notings assume primacy. Tested against this record, the defence contention that there was transparency, institutional consultation and continuous involvement of the LG Secretariat finds substantial support in the prosecution's own witnesses. The material, as it presently stands, does not disclose a prima facie case of policy concealment, unilateralism or exclusion of the constitutional authority. On the contrary, the record reflects a process marked by consultation, communication and administrative caution.

281. In the light of the discussion above, the prosecution version stands eroded. The contemporaneous record shows that the DEP-21/22 was formulated and processed with consultation at the highest executive level, including the involvement of the Lieutenant Governor's Secretariat. The file notings record discussions, incorporation of inputs, approval by the Council of Ministers and subsequent apprisal of the Hon'ble LG.

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282. In these circumstances, a charge of conspiracy founded on concealment or unilateral manipulation cannot be sustained against A-8 in isolation when the same documentary record reflects deliberation and movement of the file through constitutional channels. The material indicates institutional participation rather than an individualised exercise of authority. It is clarified that this observation is not intended to attribute liability to any other authority. The limited conclusion, at this stage, is that the record does not disclose prima facie material to show that A-8 acted unilaterally or engineered any concealed manipulation in the formulation of the policy.

283. Lastly, what renders the entire discussion untenable is that the prosecution itself departs from its own foundation. The seven suggestions are attributed solely to A-8, yet the record reflects that these suggestions were stated to have arisen during deliberations with the Hon'ble LG. If A-8 was, as alleged, the sole architect of a draft prepared and supplied by the so-called South Group, there was no apparent reason for him not to incorporate those very suggestions in the draft policy. The prosecution's position, therefore, lacks internal consistency.

284. More importantly, even if the prosecution case is taken at its highest, only one out of the seven alleged suggestions is linked to any supposed benefit. That suggestion concerns the reduction of the turnover requirement for grant of L-1 licence from ₹250 crores per

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year for the preceding three years (excluding the Covid year) to ₹150 crores. According to the prosecution, this reduction enabled M/S Indospirit to become eligible for the L-1 licence, which it otherwise would not have secured.

285. However, this contention conflicts with the broader conspiracy theory advanced by the prosecution itself. It is also alleged that the second draft GoM report dated 19.03.2021 was prepared and supplied by the South Group. Significantly, the turnover criterion in that draft was ₹500 crores per year for the preceding five years, far higher than both ₹250 crores and ₹150 crores. The prosecution further suggests that this higher threshold was intended to eliminate smaller competitors.

286. These two positions cannot stand together. On one hand, the South Group is alleged to have proposed a ₹500-crore threshold to exclude competition. On the other, the reduction to ₹150 crores is said to have been introduced to benefit the same group. Such diametrically opposite assertions erode the credibility of the conspiracy theory.

(emphasis supplied)

287. The record also shows that M/S Indospirit, associated with A-7 and projected as the vehicle for alleged recoupment, had initially applied for an L-1 licence but withdrew its first application as it did not meet even the ₹150-crore eligibility criterion. This fact is of

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considerable significance. If the reduction to ₹150 crores had been specifically engineered to favour that entity, it is difficult to explain why it failed to qualify under the very condition allegedly tailored for its benefit.

288. The documentary record therefore indicates that the turnover requirement functioned as an objective eligibility condition and not as a pre-designed mechanism to secure a predetermined outcome. When the prosecution's own material is read as a whole, it reveals clear internal contradictions which materially weaken, indeed, demolish, the allegation that the turnover clause was inserted pursuant to a pre-conceived conspiracy. Consequently, the prosecution has failed to disclose even a prima facie case against A-8 on this aspect.

(ii) Alleged Suppression of Adverse Legal Opinions by removal of the Cabinet Note dated 28.01.2021

289. The prosecution alleges that A-8 deliberately removed an office note containing legal opinions which were not in favour of the proposed policy. According to the prosecution, those opinions created a hurdle because the DEP-21/22 ultimately adopted differed from the recommendations made in the Ravi Dhawan Report.

290. The case of the prosecution is that the Ravi Dhawan Committee had recommended that wholesale trade should remain with a government-controlled entity functioning through a cooperative

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structure, and that retail vends should be allotted by lottery. In contrast, the DEP-21/22 provided for privatisation of the wholesale segment and allocation of retail zones through competitive bidding. It is on this basis that the prosecution asserts that the office note containing the legal opinions was intentionally removed so that the policy could proceed in the desired form.

291. This allegation forms the foundation of the prosecution's case on this issue and will now be examined in the light of the material placed on record.

292. The issue assumes importance when para 16.10 and 16.12 of the First Supplementary Charge-sheet and para 16.5 of the Third and Fourth Supplementary Charge-sheets are read in the manner the investigating agency has presented them. The prosecution's case is that the *"03 legal opinions of Sh. Ranjan Gogoi… Sh. Mukul Rohatgi… and Justice KG Balakrishnan…"* were *"mostly in favour of maintaining the status-quo,"* and that *"after the said Cabinet Meeting on 28.01.2021, the accused Manish Sisodia called Sh. Rahul Singh and expressed his anger for incorporating the comments of the legal experts in the Cabinet Note."* It is further alleged that *"these facts establish that the accused Manish Sisodia, in criminal conspiracy… was working with a pre-conceived idea… and dishonestly and deliberately did not put up the cabinet note… and destroyed/cause disappearance of the file… because it was not suiting their ulterior*

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designs," and that *"a vital file containing the opinion of three legal experts, which was against his pre-conceived ideas was deliberately destroyed by him."*

293. The exact Extracts from the Supplementary Charge-Sheets are reproduced herein below for ready reference:-

First Supplementary Charge-Sheet

> *" 16.10… In the said draft Cabinet Note; along with the summary of the comments/suggestions received from public/stakeholders, the 03 legal opinions of Sh. Ranjan Gogoi, Former Chief Justice of India; Sh. Mukul Rohatgi, Senior Advocate & Former Attorney General for India and Justice KG Balakrishnan, Former Chief Justice of India, obtained by Delhi ALCOBEV Retailers Association, and forwarded by them to the Excise Department on the dedicated email ID, were also mentioned by the Excise officials and Shri Rahul Singh in the forwarding Note for the Council of Ministers and copies of these legal opinions were also annexed with the Cabinet note. It is revealed that these legal opinions were mostly in favour of maintaining the status-quo……. It has been also revealed that after the said Cabinet Meeting on 28.01.2021, the accused Manish Sisodia called Sh. Rahul Singh and expressed his anger for incorporating the comments of the legal experts in the Cabinet Note."*
>
> *"16.12…..These facts establish that the accused Manish Sisodia, in criminal conspiracy with other accused persons, was working with a pre-conceived idea to formulate the excise policy in a particular manner to suit the designs of co-accused persons and dishonestly and deliberately did not put up the cabinet note containing comments of legal experts as annexure in the Cabinet meeting dated 28.1.2021 and destroyed/cause disappearance of the file of the said Cabinet Note, because it was not suiting their ulterior designs."*

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Third & Fourth Supplementary Charge-Sheets

> *"16.5…..A vital file containing the opinion of three legal experts, which was against his pre-conceived ideas was deliberately destroyed by him."*

294. In substance, the charge-sheet is framed to convey that the opinions were *"against his pre-conceived ideas,"* and that the accused removed or destroyed the file to prevent any impediment to his alleged design. The language employed, *"pre-conceived idea," "criminal conspiracy," "dishonestly and deliberately,"* and *"vital file… deliberately destroyed",* is clearly directed towards attribution of motive and intent, and it is presented in a manner which invites the Court to treat the alleged removal of the file as conduct reinforcing the broader conspiracy theory.

295. The allegation requires consideration on two aspects.

296. Firstly, it has to be examined whether the legal opinions contained in the office note were of such a nature that they could have actually obstructed the formulation of the DEP-21/22. A legal opinion, by itself, does not automatically prevent a policy decision. It must be seen whether the opinion was binding or prohibitory in character, or whether it merely expressed reservations or suggested an alternative course. Unless the opinion clearly barred the proposed policy measures, it cannot be assumed that it stood as an insurmountable obstacle.

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297. Secondly, even if the opinions were adverse to certain features of the proposed policy, it must be established that the office note was deliberately removed. The allegation of removal cannot rest on conjecture. There must be material to indicate conscious and intentional suppression. In the absence of such material, no adverse inference can be drawn merely on the basis of an alleged disappearance.

298. Both these questions require examination on the strength of the record.

- **Constitutional Concerns Expressed in the Legal Opinions allegedly to have been concealed**

299. Before examining the contents of the legal opinions, it is necessary to record that these three opinions were obtained by the Alcobev Retail Association and forwarded as suggestions when the Ravi Dhawan Report was placed in the public domain for comments. They were not opinions sought by the Government in the course of its internal decision-making, but were inputs received during the consultation process.

300. The fact that these opinions were sent is reflected from D-125, which shows the email along with attachments. However, the printouts of the legal opinions were not placed on record as standalone documents. They are traceable only from the email dump contained in

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D-108, which consists of a CD containing more than 14,000 emails. At this stage, this Court leaves that aspect open and shall revert to it, if required, after examining the report and the surrounding material.

301. For examining whether the opinions were of such a nature as to obstruct the proposed policy, it is necessary to go through them in their entirety. Any conclusion must rest on a reading of the opinions as a whole. They cannot be read in fragments.

302. The features now alleged to be the outcome of a conspiracy are stated to have been discussed in these opinions. For proper appreciation, the relevant extracts are reproduced below so that their contents may be assessed in their correct context.

1. Limiting grant of retail licenses to individuals

Justice Ranjan Gogoi records: *"I am of the opinion that the rationale given by the new committee in limiting grant of licenses to only individuals - that this would minimize the chances of proxy ownership that lead to creation of cartels - would not pass muster of Article 14 of the Constitution of India." (Para 4)*

He further observes: *"While avoidance of cartelization and proxy ownership is surely a laudable objective, the end to achieve such means i.e. limiting grant of licenses to individuals does not appear to bear a reasonable or rational nexus with that objective. This would violate the doctrine of proportionality…" (Para 5)*

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Shri Mukul Rohatgi states: *"There is no valid reason as to why Companies, Partnerships and Co-operative Societies are excluded while such entities are permitted to carry any other form of business…. There is no restriction on family members obtaining license and in fact, any individual can obtain two licenses and further transfer / sale of license is permitted."*

Justice K.G. Balakrishnan adds: *" The combined effect of these clauses would mean, for example, that in a family of, say, A, his wife B, and one son C and one daughter D, each of A, B,C,D and hold 2 licenses each and in fact even purchase licenses. Thus, a single family could end up having 8 licenses, and none of these may actually be obtained from the initial lottery but may be purchases from others who may have succeeded in the lottery only based on speculative applications. This would in fact be not only lead to cartelization and proxy ownership but would also"*

2. Lottery system and Clause 1.3.12 – Permitting transfer of ownership (exit option)

Shri Mukul Rohatgi observes: *"Policy of lottery have been proposed. The same will lead to complete uncertainty as to who will be successful and where. The location of the vend is also not within the choice of the applicant."*

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Justice K.G. Balakrishnan notes: *"Clause 1.3.12 permits sale of interest in the vend obtained through lottery."* and further: *"It contemplates and grant sort of official recognition to a situation where a non-serious applicant with little or no knowledge could actually succeed in the lottery and then sell it off to anyone else."*

Justice Ranjan Gogoi observes: *"In fact, the logic of Clause 1.3.12 - that permitting transfer of ownership would 'provide an exit option to a non-serious applicant who has little or no knowledge or liquor trade - is incongruous…" (Para 8) "…there shall be no limit on the number of applications which an individual may make…" (Para 8 referring to Clause 1.3.4)*

3. Revamping pricing mechanism (letting L1 licensees define the MRP)

Justice K.G. Balakrishnan notes: *"After letting the L1 licensee decide the MRP, the government would work backwards…"* and further states that *"this would put the select manufacturers in a dominant position to decide pricing, would be violative of fair competition."*

Justice Ranjan Gogoi similarly observes: *"…competition is being reduced to 4 companies only… and then the pricing regime is being changed… I am of the opinion that this would put the select manufacturers in a dominant position to decide pricing…"*

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303. The record shows that the legal opinions were obtained by the Association in the backdrop of the suggestions contained in the Ravi Dhawan Report. The proposed clauses, particularly those concerning the retail segment, formed the basis on which the opinions were sought. The queries were largely confined to issues relating to retailers and the manner of allotment of retail vends.

304. A reading of the opinions as a whole shows that they raise concerns regarding arbitrariness, absence of rational nexus, possible concentration of licences, proxy ownership, cartelisation and dominance in pricing. They do not record any categorical objection to structural reform, privatisation of wholesale trade, or allocation of retail zones through competitive bidding. On the contrary, in relation to retail allotment by lottery, the opinions express reservations about the lottery framework. None of the experts stated that wholesale must remain with a government corporation, nor did they opine that privatisation was impermissible.

305. Even if these opinions had been annexed to the Cabinet Note, it is difficult to see how they would have created any obstacle. The opinions themselves described aspects of the lottery-based model as arbitrary and constitutionally vulnerable. Far from hindering a change in approach, such observations could have provided a basis for reconsidering the suggested framework and for the constitution of a GoM to examine the matter further.

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306. In this background, the Court is unable to appreciate how the legal opinions could be treated as an impediment to the DEP-21/22 that was later framed. The prosecution has placed considerable emphasis on the Ravi Dhawan Report and on these opinions. However, on a plain reading, the principal criticism in the opinions was directed against the lottery system for allotment of retail vends. The policy that ultimately emerged replaced the lottery system with allocation through bidding.

307. Seen in this light, the assertion that the legal opinions stood in the way of the policy, particularly the clauses now alleged to constitute the core of the supposed modus operandi for recoupment of ₹90–100 crores as upfront payment, does not find support in the text of the opinions themselves.

- **Suppression by Obscurity: Placement of Allegedly Vital Material Within a Voluminous Electronic Record - Conduct of the Investigating Officer and Its Impact on Fair Investigation**

308. This Court considers it necessary to resume and clarify what was earlier left incomplete regarding the manner in which the legal opinions were placed with the charge-sheet.

309. The way in which these opinions have been brought on record is of relevance. They have not been filed as separate relied-upon documents. What has been formally exhibited is only the first

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page of the email forwarded to the official email ID, marked as D-125. The actual text of the opinions has not been placed as independent annexures. They are traceable only through the email dump marked as D-108, which consists of a compact disc containing more than fourteen thousand emails.

310. If these opinions were truly regarded as material of central importance, they would ordinarily have been placed on record distinctly and in a form enabling ready reference. That course was not adopted. The contents were not set out separately or highlighted in the charge-sheet. During arguments, the opinions did not readily present themselves for consideration, as they remained embedded within a voluminous electronic record. Their retrieval required sifting through the entire email dump rather than referring to a clearly identified relied-upon document.

311. In effect, material now described as *"vital"* was not presented in a manner consistent with such characterisation. Instead, it remained part of a large pool of electronic data. The manner in which it was placed on record assumes significance when the prosecution seeks to attach decisive weight to it.

312. At the same time, it is to be fairly recorded that when the Court specifically sought the material, and it became difficult to locate the opinions within the electronic record, the prosecution did trace and furnish copies, thereby enabling scrutiny. That aspect is duly noted.

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313. However, the manner in which the material was originally placed on record requires examination. Even at the cost of repetition, it is evident that the charge-sheet places considerable emphasis on motive and intent, employing expressions such as *"pre-conceived idea," "criminal conspiracy," "dishonestly* and *deliberately,*" and *"vital file… deliberately destroyed."* Yet the very document said to form the basis of such an inference was not distinctly presented in a manner that would permit it to be readily examined and tested at the same stage.

314. The prosecution case proceeds on the footing that the legal opinions were deliberately removed because they were adverse and stood in the way of the alleged conspiracy. An allegation of deliberate removal of official record, particularly against a person holding the office of Deputy Chief Minister (A-8), is of serious consequence. If such an allegation is founded upon the contents of certain legal opinions, those opinions ought to have been placed before the Court clearly and distinctly.

315. Instead, the material remained embedded within a voluminous electronic dump. The charge-sheet itself runs into thousands of pages and refers to several hundred witnesses. In that setting, material not distinctly identified is liable to remain unnoticed for a considerable time. The presentation gives the appearance that the conclusion is foregrounded, while the supporting material is left to be

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discovered only upon deeper scrutiny , almost as if one were searching for a needle in a haystack.

316. At this stage, the Court finds itself in a certain dilemma as to where the element of *"pre-conceived idea"* truly lies, whether in the conduct attributed to the accused or in the manner in which the material has been presented by the investigating officer. The manner in which the record has been structured does not sit comfortably with the obligation to ensure fairness in the process. A fair trial is a fundamental right of every citizen, and the presentation of material must reflect that obligation.

(emphasis supplied)

317. In view of the foregoing discussion, the allegation of suppression of adverse legal opinion does not, prima facie, sustain itself on the material presently examined. The contents of the opinions, as they stand, do not justify the inference that their alleged non-placement or disappearance was actuated by a design to conceal binding or prohibitory advice.

318. However, the matter cannot rest there. Since the prosecution has attached considerable significance to this allegation and seeks to draw a wider inference of motive and conspiracy from it, it would be appropriate to examine the relevant witnesses and surrounding circumstances so as to have a complete view of the matter.

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The oral evidence, the sequence of file movement, the contemporaneous conduct of officers, and the manner in which documents were processed will therefore require scrutiny, before a final conclusion is drawn on the evidentiary worth of the allegation.

319. The most significant statement in this regard is that of Ashok Daryani (PW-80), who was Assistant Commissioner (Policy) during the relevant period and was appointed as the Nodal Officer to process the comments received from the public on the Expert Committee (Rajeev Dhawan) Report. On a considered appraisal of the statement of PW-80, the record reflects that he occupied a pivotal administrative position in the formative stage of the DEP-21/22, having served in that capacity from mid-December 2020 to 15.02.2021. His deposition establishes that the consultative exercise initiated pursuant to the Dy. CM's noting dated 16.12.2020 was undertaken under clear and detailed ministerial directions, which required publication of the Expert Committee Report, invitation of comments, issuance of advertisements, creation of a dedicated e-mail ID and appointment of a Nodal Officer. PW-80 confirms that *"Sh. Manish Sisodia, Dy. CM vide noting dated 16.12.2020 directed…"* these steps and that, in consequence, he was appointed to receive, scrutinise and summarise all stakeholder inputs.

320. PW-80 further states that a substantial corpus of responses, *"14,671 numbers of emails",* was received and examined

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through three internal teams. He specifically records that strict instructions were already in place *"not to mention the names/identity of the mail senders as well as the number of persons sending same type of comments/suggestions."* This requirement of anonymity constituted an important safeguard embedded in the ministerial directions. The statement, however, discloses that the draft Cabinet Note prepared on 27-28.01.2021, at the instance of the then Commissioner Rahul Singh and executed through PW-80, departed from these anonymity requirements. PW-80 acknowledges that while summarising stakeholder comments, certain suggestions received from the Delhi ALCOBEV Retailers Association *"along with the opinions of Sh. Ranjan Gogoi… Sh. Mukul Rohatgi… and Justice K.G. Balakrishnan"* were placed as separate annexures, Annexure-C and Annexure-D, to the draft Cabinet Note dated 28.01.2021. This inclusion, despite express directions to anonymise all inputs, places the role of the departmental officers, particularly Rahul Singh and PW-80, into sharper focus.

321. Significantly, PW-80 records that the Dy. CM *"has taken it otherwise that the department has put up the comments of the legal experts separately along with the Cabinet Note,"* indicating that this deviation was viewed adversely at the ministerial level and did not emanate from any instruction or desire of the Dy. CM. In this backdrop, the preparation of a draft note expressly identifying expert

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opinions, contrary to standing directions, emerges as a departmental deviation rather than a ministerial act. PW-80 also narrates that the draft Cabinet Note was prepared in unusual haste following a late-night phone call, with the format forwarded to his WhatsApp and approval obtained *"in the hospital… as his wife was expecting and admitted there."* The file was thereafter taken to the CM's Camp Office, where PW-80 states that the Cabinet *"did not consider"* the note and the file was withheld. This sequence underscores the procedural irregularity surrounding the first draft.

322. After Sanjay Goel assumed charge as Commissioner on 03.02.2021, PW-80 confirms that a revised and structured approach was adopted in line with the Dy. CM's note dated 02.02.2021, directing that the Expert Committee Report and the summary of public and stakeholder comments be submitted to the Council of Ministers. Sanjay Goel (PW-78) instructed the removal of the descriptive portions of Annexure-C and Annexure-D and their hard copies, clarifying that the material was to be assimilated into the main summary and that *"no name or identity of any stakeholder/legal expert has to be mentioned."* PW-80 explains that the legal opinions were not discarded or suppressed; they were retained in substance but anonymised and merged into the consolidated summary in accordance with the earlier directions proved by PW-78 that *"to include all the suggestions and comments received in the summary of*

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comments/suggestions of general public stakeholders without specifying comments received from any corner. Accordingly, the dealing hand put up a draft cabinet note on 04.02.2021 along with revised summary incorporating all comments/suggestions received.". The final Cabinet Note dated 04.02.2021 thus contained the complete inputs, including the legal opinions, presented in conformity with the anonymity protocol established on 16.12.2020.

323. The revised note was duly processed through the administrative hierarchy, approved by the Dy. CM and the Chief Minister on 05.02.2021, and placed before the Cabinet as a tabled item, resulting in Cabinet Decision No. 2942 dated 05.02.2021 constituting a GoM to examine the Expert Committee Report and all stakeholder feedback. PW-80 concludes by stating that he was transferred w.e.f. 15.02.2021 and was therefore not aware of subsequent developments. His statement thus delineates the administrative flow and reveals that the only clear deviation from the Dy. CM's directions, particularly on anonymity, occurred at the departmental drafting stage under Rahul Singh and PW-80.

324. The statement of PW-82, Pravesh Ranjan Jha, further reinforces this position. On a considered evaluation of his evidence, no circumstance emerges from which an adverse inference can be drawn against the political executive in relation to the preparation, approval or placement of the draft note dated 28.01.2021. PW-82

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categorically states that although officials of the Excise Department approached him around 01:00 PM on 28.01.2021 with a request to send an Excise proposal for placement before the Council of Ministers, *"no matter of Excise Policy was mentioned in the agenda for the aforesaid Cabinet Meeting."* He further clarifies that the proposal *"was not considered by the Council of Ministers on that day"* and that the file was never returned to him and remains untraceable, with both the Chief Minister Office and the Chief Minister's Camp Office certifying that it is not available with them. Even assuming, for the sake of argument, that the draft note enclosed in the missing file contained formulations not strictly conforming to the Dy. CM's anonymity directions, the record does not establish that such a note was ever approved, signed, endorsed or acted upon by the Dy. CM or placed before the Cabinet. PW-82's statement is categorical that the proposal was not considered.

325. The consistent position emerging from PW-80 and PW-82 is that the substance of all suggestions, including expert legal opinions and public inputs, was ultimately collated and incorporated in the subsequent Cabinet Note dated 04.02.2021 without omission or alteration, thereby negating any allegation of suppression or filtration at the ministerial level. Accordingly, the non-traceability of the physical file dated 28.01.2021 does not advance the prosecution's case. The draft note never attained the status of a placed, processed or

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approved Cabinet document, nor does the evidence disclose any act of the Dy. CM conferring legitimacy upon its contents. Once the legal opinions and stakeholder inputs stood incorporated in anonymised form in the Cabinet Note dated 04.02.2021 and were duly placed before the Cabinet, the very premise of suppression or removal ceased to survive.

326. Finally, the ancillary allegation that the Dy. CM expressed displeasure with certain notings and allegedly *"displaced"* the file also fails to disclose any criminal culpability. The Transaction of Business Rules, 1993 (TOBR) prescribe a detailed, institutional framework for conduct of governmental business, leaving no scope for unilateral derailment of policy-making by an individual Minister. The Rules cast a clear duty upon the Secretary concerned to escalate any impediment to the Chief Minister and, under Rule 30, to the Hon'ble LG. The record is silent on any such escalation, further undermining the prosecution narrative.

327. Viewed cumulatively, the material on record does not disclose suppression of adverse legal opinions, any deliberate removal of material, or any mens rea attributable to the Dy. CM (A-8). At the highest, the evidence points to a procedural deviation at the departmental drafting stage, subsequently corrected through institutional processes, which falls far short of meeting the threshold required for framing of charge.

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(iii) Assessment of the Alleged 36-Page Draft in Light of the Record and its Impact on Fair Trial

328. The prosecution has attempted to construct a narrative concerning the preparation of the draft GoM report dated 19.03.2021. The substance of the allegation is that a set of 36 printed pages was generated externally, allegedly by members of the *"South Group,"* and that this very set of 36 pages ultimately travelled through the accused persons and became the basis of the second draft GoM report. The insinuation is that the draft report was not the result of internal deliberation within the Government, but was supplied from outside and thereafter formalised within the office of the Dy. CM. The allegation thus strikes at the integrity of the policy formulation process and seeks to attribute external authorship to the draft itself.

329. The charge-sheet relies upon the following extracts:

> *" 16.15 – The investigation further revealed that on 18.03.2021, the accused Manish Sisodia, the then Dy. CM, handed over to Sh. C. Arvind a hard copy of a draft report of GoM for typing and proper formatting. The said draft of GoM report was got typed by Sh. C. Arvind on the desktop computer installed at the conference room of Dy. CM office with the assistance of his PS Sh. Sunil Singhal on two days i.e. 18th & till late night on 19th March 2021….*
>
> *16.16 ….As per the property of the said 38 pages (including 01 page label + 01 page index + 36 pages report) word file, it was last modified at 10:28 PM on 19.03.2021, which corroborates the versions of Sh. C. Arvind and Sh. Sunil Singhal, the typist, who have confirmed that the typing work of the draft*

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GoM report was completed at around 10:30 PM on 19.03.2021.

16.18 …….. The said accused persons also used the computer kept at the Business Center of Oberoi Hotel and took a photo copy of 36 pages from the hotel, which matches (minus the index and title pages) with the number of pages of draft of the GoM report retrieved from the computer installed in the Conference Hall of Dy. CM's office…."

330. Placed in sequence, these extracts are intended to convey that the 36 pages photocopied at the Oberoi Hotel business centre were the very same 36 pages (excluding index and title pages) that later formed part of the draft GoM report typed in the Dy. CM's office. The similarity in page count is projected as proof of identity. The narrative thus suggests a continuous chain, preparation of a 36-page document outside the Government office, its movement through certain accused persons, its delivery for typing, and its emergence as the draft GoM report dated 19.03.2021. The intended inference is that the draft report was externally prepared and internally processed.

331. This chain of inference, however, stands contradicted by the prosecution's own witnesses. PW-71, through whom the alleged transmission is sought to be established, clearly states: *" I saw that sh. Sisodia was present there alongwith sh. Satyendra Jain and Sh. Kejriwal in the camp office . In their presence, dy cm sh. Shisodia gave me a printed hard copy of a draft report of GoM of about 20-25 pages " and further clarifies that the printed hard copy handed over to him by A-8 consisted of "about 20–25 pages."* This is a categorical

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assertion regarding the volume of the document allegedly received by him at the camp office. The same is reflected in his statement recorded under Section 164 of Cr.P.C. (D-187). There is no scope in this statement for equating the document received by PW-71 with a 36-page printout.

332. The position is further supported by PW-72, the stenographer who typed the draft report. On a specific query, PW-72 states that he typed *"25–30 pages."* This statement assumes significance, as it emanates from the person directly involved in the preparation of the draft. If the draft supplied to PW-71 had been a 36-page document, there is no explanation as to why both PW-71 and PW-72 consistently refer to a substantially smaller document.

333. The documentary record reinforces this conclusion. The first draft GoM report dated 15.03.2021 (Ex. D-196) consists of 24 pages. The subsequent second draft GoM report dated 19.03.2021 (Ex. D-195) expands to 38 pages, and the final GoM report (Ex. D-197) runs into 49 pages. This progressive increase in volume reflects an evolving drafting process. It is inconsistent with the prosecution's theory of a pre-existing 36-page document being merely circulated and adopted. The attempt to correlate the 36-page hotel printout with the 38-page draft dated 19.03.2021 is speculative and unsupported by the record.

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334. The allegation, when tested against the record, stands substantially undermined by the very content of the second GoM draft report. The introduction of the turnover eligibility clause requiring ₹500 crores per annum for the preceding five years is wholly inconsistent with the prosecution's theory of a pre-designed conspiracy intended to benefit M/S Indospirit.

335. It is a matter of record that such a stringent threshold, if applied, would have rendered M/S Indospirit ineligible at the very threshold. A requirement of ₹500 crores annual turnover for five consecutive years is not a marginal or cosmetic stipulation; it is a substantial financial benchmark that effectively excludes entities lacking sustained high-value operations. Far from facilitating entry, such a clause would have operated as a clear disqualification.

336. Even when the final DEP-21/22 ultimately prescribed a significantly reduced criterion of ₹150 crores per annum for the preceding three years for the grant of an L-1 licence, the material indicates that M/S IMPL still faced difficulty in meeting the qualification parameters. If an entity struggled to satisfy a comparatively lower eligibility norm, it is inconceivable that a much higher threshold of ₹500 crores for five years could have been designed to advance its interests.

337. This aspect strikes at the core of the alleged conspiracy. The prosecution theory proceeds on the premise that the draft clauses

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were tailored to favour specific private entities and to enable recoupment of alleged *"upfront"* payments. However, a clause that objectively disqualifies the very entity said to be a beneficiary defeats the suggested motive. A conspiratorial design to extend unlawful advantage cannot logically coexist with the insertion of an eligibility condition that blocks entry altogether.

(emphasis supplied)

338. Accordingly, the turnover clause in the second GoM draft not only fails to support the allegation of external manipulation but, on the contrary, frustrates the very object attributed to the alleged conspirators. It renders the theory of deliberate policy tailoring for recoupment commercially and logically untenable.

- **Conduct of Investigating officer and Impact on fair investigation**

339. The prosecution's allegation stands in direct conflict with the statements of PW-71 and PW-72 and is further contradicted by the very documents relied upon by the prosecution. The suggested identity between the hotel printout and the GoM draft rests on conjecture, selectively emphasising page counts while overlooking the contemporaneous record.

340. In conclusion, the allegation that a 36-page draft prepared by the South Group was transmitted through A-4 and A-3 to A-8 and thereafter handed over to PW-71 is not borne out by the

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material on record. On the contrary, it is contradicted by the prosecution's own evidence. The record does not disclose any basis for the alleged inference and is insufficient to sustain even a prima facie conclusion of external authorship or influence in the formulation of the GoM report.

341. Notwithstanding this, the 36-page photocopy has been projected as a decisive circumstance. The juxtaposition of paragraphs 16.15, 16.16 and 16.18 creates an impression of certainty which the record does not support. A circumstance that merely indicates that 36 pages were photocopied at a hotel has been treated as a conclusive link in the alleged chain of conspiracy. When inferential coincidences are framed as established facts or when an inference unsupported by the primary statements and documents is presented with such finality, it risks distorting the appreciation of evidence at the threshold stage. A fair trial requires a balanced and faithful presentation of material; selective emphasis or overstatement of circumstances undermines that standard and directly affects the right of the accused to an impartial adjudication.

(iv)Framing of the Excise Policy, Procedural Infraction

342. On a careful and holistic appraisal of the statement of PW-74, Shri Arva Gopi Krishna, read alongside the contemporaneous documentary record, this Court finds that the framing of the DEP-21/22 does not disclose any procedural infraction. The evidence

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on record reflects a structured, traceable, and multi-tiered administrative process, commencing with pre-existing departmental studies, proceeding through the recommendations of the GoM, and culminating in successive approvals by the Council of Ministers and scrutiny by the Hon'ble LG. Each stage of the process is supported by written notings, Cabinet Decisions and formal ministerial directions, which were acted upon by the Excise Department in the ordinary course of administration. The material placed before the Court thus negates any suggestion of unilateralism, opacity or deviation from the established procedure, and instead affirms that the Excise Policy was framed through a lawful and institutionally compliant decision-making process.

343. In his further statement, PW-74 confirms that the Excise Department's role commenced only after the recommendations of the GoM had already been approved by the Council of Ministers. He categorically states that the Cabinet-note file *"has been dealt by me as Excise Commissioner, after approval of the recommendations of GoM report… by the Council of Ministers vide Cabinet Decision No. 2983 dated 22.03.2021,"* and that only thereafter did the Excise Department prepare the draft DEP-21/22 and submit the proposal to the Finance Department on 06.04.2021. This statement clearly situates the Department's role within an implementation framework, rather than at the stage of originating policy parameters.

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344. The subsequent file movement, as narrated by PW-74, reflects structured decision-making across multiple constitutional and institutional levels. He records that the Draft Cabinet Note was approved by the Deputy Chief Minister on 08.04.2021; the revised Cabinet Note was approved by the Council of Ministers on 15.04.2021 vide Cabinet Decision No. 2994; and the proposal was thereafter forwarded to the Hon'ble LG. On 20.05.2021, the Deputy Chief Minister noted that the Hon'ble LG had given certain suggestions and directed revision of the Cabinet Note accordingly. The revised proposal was thereafter approved by the Council of Ministers vide Cabinet Decision No. 3003 dated 21.05.2021, following which the file was sent to the Excise Department for implementation. This sequence evidences layered scrutiny and collective decision-making, wholly inconsistent with allegations of unilateral action. A similar pattern of documented approvals and oversight emerges in relation to the issue of opening liquor vends in non-conforming wards.

345. PW-74 records that on 28.09.2021, the Deputy Chief Minister directed that a proposal be put up for in-principle approval of the Government for opening liquor vends in wards lacking conforming areas. The Cabinet approved this proposal vide Cabinet Decision No. 3047 dated 05.11.2021, and the Hon'ble LG thereafter approved the same subject to requisite approvals from the DDA and the concerned MCD. Subsequently, the LG constituted a High-Powered Committee

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on 06.12.2021, whose report dated 10.12.2021 noted that conforming areas were available in 205 wards and suggested limited adjustments for the remaining wards, though ultimately no vends could be opened in non-conforming wards. The record thus shows enhanced scrutiny and corrective oversight, not procedural impropriety.

346. The manner of implementation through ministerial directions is further illustrated by the note dated 03.02.2022, wherein the Deputy Chief Minister, having regard to the recommendations of the High-Powered Committee and revenue considerations, recorded that the only viable option was to allow retail licensees to open additional retail vends in conforming wards, with approval of the Council of Ministers to be obtained in due course. Pursuant to this direction, the Excise Department issued its circular dated 09.02.2022. An identical institutional approach is reflected in the grant of Covid-period licence-fee relief: although the Department had initially opined that such relief was not envisaged in the tender document, the Deputy Chief Minister, after calling for and examining sales-impact data, directed on 01.02.2022 that pro-rata licence-fee relief be granted, which direction was implemented by the Department through its order dated 08.02.2022.

347. The extension of the Excise Policy also followed express and recorded ministerial directions. PW-74 states that on 28.02.2022 the Deputy Chief Minister directed that the policy required further

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time to stabilise and resolve teething problems, and again on 20.05.2022 directed that the policy be extended up to 31.07.2022, pursuant to which the Excise Department issued the formal order dated 23.05.2022. These steps further demonstrate that implementation consistently followed written directions placed on file and acted upon administratively.

348. As regards the pricing structure and the 12% wholesale margin, PW-74 clarifies that the policy-prescribed pricing mechanism required wholesalers to bear the full landed cost, including EDP, Export Pass Fee, Import Pass Fee, freight, handling and insurance charges, and that only thereafter was a 12% profit margin added to arrive at the wholesale price, with excise duty and VAT payable to the Government by the wholesaler. He further explains that his order dated 28.10.2021 levying 2% CST did not prohibit manufacturers from billing wholesalers for freight, insurance and handling charges, and that manufacturers never submitted such bills to the Excise Department, whose concern was confined to excise duty and VAT.

349. Against this evidentiary backdrop, the allegation that the GoM finalised the Excise Policy without any departmental inputs, particularly with respect to the 12% margin or the definition of *"related entities",* does not withstand scrutiny. PW-74's statement establishes only that he personally did not originate the numerical margin or the definition of related entities, not that the Department was

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excluded from the deliberative process. This inference is further dispelled by the statement of PW-71, Shri C. Arvind, who affirms that the draft GoM report was internally worked upon with participation of CM fellows/researchers and that departmental officers, including Shri Ajay Gambhir, provided inputs for rationalisation of licence categories. The broader institutional chronology reinforces this conclusion. Even prior to the constitution of the GoM, a Committee under the chairmanship of the then Excise Commissioner had been constituted on 04.09.2020 and had submitted its detailed report on 13.10.2020. Departmental material, studies and analysis were thus already in existence and available for consideration during the GoM deliberations.

350. Viewed cumulatively, the very evidence relied upon by the prosecution negates its own allegation. The statements of PW-74 and PW-71 disclose a multi-layered and consultative policy-making process, informed by prior departmental work and subjected to repeated institutional approvals. The record therefore fails to disclose any prima facie basis to infer that the determination of the 12% margin or the definition of related entities was tainted by concealment, conspiracy or procedural impropriety so as to justify the framing of charge.

(v) Uniform 12% Wholesale Margin under the DEP-21/22

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351. A careful, cumulative and contextual appreciation of the statements of PW-110 (Sh. Kiran Kumar Gurpur, Chief Sales Officer, United Breweries Limited), PW-107 (Sh. Hari Ram Khatri, Retail Licensee), PW-108 (Sh. Puneet Ahuja, Retail Participant), PW-109 (Ms. Neha Juneja, State Head, Sales, United Breweries Limited), PW-111 (Senior Executive, United Breweries Limited) and PW-112 (Sh. Prathmesh Mishra, Chief Commercial Officer, M/S DIAGEO, United Spirits Limited), when read conjointly with the DEP-21/22, establishes a consistent and coherent economic narrative which fundamentally undermines the prosecution's theory that the uniform 12% wholesale margin was a source of assured profitability or undue benefit. The evidence, viewed as a whole, demonstrates that the margin was structurally and commercially inadequate, particularly for beer and other high-volume, low-value products and, in practice, operated as a loss-making margin across the supply chain.

352. The statement of PW-110 forms the economic starting point of this analysis. He categorically deposes that although the policy prescribed a uniform 12% wholesale margin, it failed to provide a separate cost card for beer, despite beer having a markedly different and higher cost structure. PW-110 quantifies that the actual cost of distributing beer in Delhi was approximately Rs. 108.8 per case, whereas the policy-permitted margin translated to only about Rs. 54 per case. The consequence of this mismatch was inevitable: strict

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adherence to the policy margin resulted in a built-in loss for the wholesaler. His evidence makes it clear that the margin did not even cover basic distribution costs such as freight, handling, insurance, breakages, warehousing, credit exposure and working-capital financing. Far from conferring any undue enrichment, the 12% margin became a source of sustained commercial stress, compelling wholesalers merely to seek measures to remain operational. This economic unviability at the wholesale level is reinforced by the statement of PW-111, who provides a detailed comparison between liquor and beer distribution under the policy. He explains that while for IMFL and foreign liquor, with landed prices of approximately Rs. 1500-1600 per case, the 12% margin yielded around Rs. 180-192 per case, the landed price of beer was only about Rs. 450 per case, resulting in a distributor margin of merely Rs. 54 per case. PW-111 further explains that beer distribution entails substantially higher operational costs than liquor, including specialised warehousing, segregation of stock sourced from multiple breweries, larger storage space due to seasonality, and additional handling requirements. During the policy period, BSPL was compelled to operate three warehouses for beer as against one for liquor, significantly escalating costs. He quantifies that the cost of operations was approximately Rs. 109 per case, almost double the beer margin, and expressly characterises the margin as ***"unrealistic and loss-making."*** Unlike earlier policy

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regimes, where manufacturers themselves undertook distribution and could internally absorb losses against manufacturing profits, the DEP 2021-22 prohibited manufacturers from distributing directly, leaving distributors with no mechanism to offset losses.

353. It is in this economic backdrop that the evidence explains the commercial conduct of manufacturers. PW-110 and PW-111 both make it clear that the structural defect in the policy placed pressure on manufacturers, including United Breweries Limited, to enter into compensatory commercial arrangements, such as permitting retention of freight, insurance and handling charges or extending limited per-case support, not as a matter of profit-sharing or favour, but as a bare necessity to keep the distribution chain functional. PW-111 specifically explains that recovery of freight, handling and insurance charges from BSPL would have rendered beer distribution commercially impossible under the already loss-making margin. He clarifies that approximately Rs. 13.8 crores accrued to M/S BSPL on account of these components purely as a consequence of UBL's decision to ensure continuity of supply in a structurally adverse policy environment, and not as any policy-linked or assured benefit.

354. This narrative of economic compulsion is further corroborated by the statement of PW-109, who provides a structured and documentary explanation for the issuance of incentives, rebates and credit notes. She establishes that market schemes were centrally

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sanctioned by the manufacturer's corporate office, budgeted in advance, and implemented uniformly on objective parameters such as volume and market share, without any retailer-specific customisation. She further explains that a special scheme introduced in August 2022 was driven solely by the need to liquidate stock in anticipation of the policy's expiry on 31.08.2022, a commercial exigency arising from policy uncertainty rather than any embedded benefit to wholesalers. PW-109 also clarifies that M/S BSPL, as distributor, merely operationalised these manufacturer-approved schemes, and that any unilateral deviation, such as advance issuance of a credit note, was unauthorised and driven by recovery concerns when a retailer was exiting the business.

355. The statements from the retail end complete the picture of a stressed commercial ecosystem. PW-107, a retail licensee, candidly acknowledges that retail operations under the DEP-21/22 were themselves commercially onerous and often loss-making, necessitating post-sale adjustments through credit notes and rebates merely to sustain operations. His evidence reflects a market characterised by continuous liquidity pressure rather than assured profitability. PW-108 corroborates this position by unequivocally denying any cash dealings or illegal payments and placing rebates and adjustments squarely within the realm of ordinary commercial accounting. His statement is conspicuously silent on any demand,

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offer or transmission of illicit consideration and instead reflects the practical necessity of such adjustments in a struggling market.

356. The evidence of PW-112 further reinforces that the impugned commercial conduct was driven by operational necessity and competitive pressures, not by any corrupt design. He explains that upon the coming into force of the new policy, there existed genuine commercial ambiguity regarding the treatment of insurance, freight and handling charges, which historically accrued to the L-1 wholesaler. To ensure that supplies commenced without disruption, a senior-level commercial discussion on 10.11.2021 led to a conscious decision not to insist upon recovery of these components from M/S BSPL Sales Pvt. Ltd. PW-112 expressly records that this was a commercial decision taken to ensure immediate commencement of invoicing and continuity of supply. He further clarifies that prevailing market realities and competitive considerations, including the apprehension that M/S BSPL might exit the distributorship, also informed this decision, underscoring that the continuation of the wholesale relationship was guided by ordinary commercial prudence in a newly restructured and economically strained market.

357. Taken together, the statements of PW-110, PW-107, PW-108, PW-109, PW-111 and PW-112 present a consistent, industry-wide narrative. The uniform 12% wholesale margin under the DEP-21/22 was economically unviable, particularly for beer, and resulted in loss-

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absorbing operations rather than surplus profitability. Manufacturers and distributors were compelled to adopt compensatory commercial mechanisms, rebates, credit notes and absorption of logistics costs, purely to keep the supply chain functional. The evidence uniformly depicts a stressed, survival-driven market rather than a rent-seeking arrangement. At the stage of consideration of charge, in the face of this unimpeached and internally consistent evidence led by the prosecution's own witnesses, the assertion advanced by the prosecution that the flat 12% wholesale margin on the landed price of IMFL, beer and wine yielded *"huge profits"* to wholesalers is exposed as demonstrably erroneous, economically illiterate and legally unsustainable.

358. The material relied upon by the prosecution not only fails to substantiate this allegation but affirmatively disproves it. The evidence establishes that the uniform application of a 12% margin, particularly to beer and high-volume products, resulted in a structural mismatch between revenue and cost, producing losses rather than surplus. The prosecution has neither identified any admissible material showing actual profit accrual nor demonstrated, even prima facie, that the margin translated into excess gains capable of being appropriated as illegal gratification. To persist with such an allegation in the teeth of categorical statement explaining cost structures, losses and survival-driven commercial adjustments is to substitute conjecture for

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evidence. The prosecution's theory, resting on a superficial arithmetical assumption divorced from economic reality, thus collapses at the threshold and cannot, in law, sustain an inference of undue benefit, quid pro quo or corrupt intent.

359. Even otherwise the increase in wholesale margin from 5% to 12% has to be viewed in the backdrop of a fundamentally altered distribution framework and the substantial escalation in operational and logistical responsibilities cast upon L-1 licensees.

360. Under the earlier policy regime, manufacturers themselves held L-1 licences and exercised end-to-end control over storage, transportation, and distribution. The costs of warehousing, logistics, handling, breakages, compliance, and inventory management were embedded within an integrated manufacturer-led system. The DEP-21/22 dismantled this structure and introduced an independent wholesaler as a distinct intermediary, **entrusted with extensive statutory and operational obligations expressly enumerated in clause 3.1.11 (vii) of the DEP-21/22. These included establishment and maintenance of compliant warehouses, deployment of logistics infrastructure, handling and transfer of liquor bottles, adherence to stricter regulatory standards, and assumption of risks earlier borne by manufacturers**.

(emphasis supplied)

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361. Any new entrant into a distribution business of this scale is necessarily required to incur significant upfront expenditure to create infrastructure, manpower, logistics chains, and compliance systems in conformity with the new policy framework. Such costs are neither incidental nor avoidable; they are intrinsic to the redesigned model. A policy that brings about a complete systemic shift cannot be expected to function effectively without addressing the economic realities of the new responsibilities it creates. Significant structural change, by its very nature, demands corresponding economic recalibration.

362. At this juncture, it bears emphasis that the enhancement of the wholesale margin to 12% cannot, in any manner, be construed as a facet of any alleged conspiracy. As already discussed, and as borne out from the evidence on record, the uniform 12% margin was, in fact, economically unviable, particularly in the case of beer and wine, where the costs of storage, handling, refrigeration, transportation, breakages and higher volume-to-value ratios rendered the margin not merely inadequate but onerous for wholesalers. If the enhancement of margin were the outcome of a carefully orchestrated conspiratorial design or a policy tweak at the behest of the so-called *"South Group"*, it defies logic as to why such a margin structure would be retained uniformly even for beer and wine, where it resulted in sustained losses rather than assured profitability. The very fact that the margin failed to

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yield commercial viability across categories militates against the theory of any tailor-made or conspiratorial benefit.

(emphasis supplied)

363. The prosecution case, when examined in the context of the statutory scheme, discloses a basic inconsistency. It proceeds on the premise that a wholesaler, out of the notified 12% margin, would agree to part with 6% as an *"upfront"* payment and yet continue to operate viably under the same regime. On its own showing, this would reduce the effective margin by half even before accounting for infrastructure costs, routine operational expenses, compliance requirements and market risks.

364. This premise becomes even more questionable when the structure of the DEP-21/22 is kept in view. Under the earlier regime, the system was manufacturer-led. The DEP-21/22 altered that arrangement and introduced an independent wholesaler as a separate intermediary, entrusted with defined statutory and operational responsibilities under Clause 3.1.11 (vii).

365. These responsibilities were substantial. The wholesaler was required to establish and maintain compliant warehouses, develop logistics infrastructure, handle and transfer consignments, adhere to stricter regulatory standards, and assume risks that were earlier borne by manufacturers. The financial burden attached to these obligations

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was considerable. Warehousing expenses, manpower, transportation, insurance, regulatory liabilities, and even the setting up of facilities for testing and checking spurious liquor at the warehouse level formed part of the operational framework. The 12% margin, therefore, was not an unencumbered surplus but a return structured against these commitments.

366. In this backdrop, the suggestion that a wholesaler would voluntarily surrender half of its assured margin at the outset and thereafter operate under significant financial and regulatory obligations, without any demonstrable compensating advantage, does not accord with ordinary commercial conduct. In allegations of financial conspiracy, the element of gain is fundamental. There must be a reasonable and discernible expectation of profit. Where the structure described leaves little scope for viable return and instead renders the business economically strained, the theory of conspiracy, as projected, appears internally flawed and inconsistent with the very objective it is said to achieve.

367. The enhancement of the wholesale margin must also be seen in conjunction with the introduction of provisions such as the EDP (Ex-Distillery Price) clauses, which were designed to ensure that efficiencies and competitive pricing ultimately benefit the consumer. The object was not merely to alter margins but to create a sustainable

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and transparent supply chain capable of functioning independently of manufacturer dominance.

368. Significantly, the investigating agency has not undertaken any comparative analysis between the old and the new policy frameworks to contextualise the increase in the wholesale margin. Without examining the qualitative and quantitative differences in obligations, cost structures, and risk allocation between the two regimes, any assertion that the revised margin is excessive remains conclusory.

(emphasis supplied)

369. Viewed thus, the increase in wholesale margin represents a policy response to a transformed regulatory and commercial environment. The introduction of independent wholesalers, who were entirely absent in the earlier system, inevitably entailed costs that could not be sustainably absorbed without a corresponding adjustment in margins. In the absence of such adjustment, the new distribution model itself would have been rendered economically unviable.

(vi) Purported Sponsorship and Orchestration of Public-Consultation Emails on the Ravi Dhawan Report

370. The allegation against A-8 is that he orchestrated certain emails purportedly sent in support of specific clauses which, according

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to the prosecution, were intended to benefit the so-called *"South Group."* It is alleged that when the Ravi Dhawan Committee Report was placed in the public domain and comments were invited from the public, certain emails received during that consultative process were sponsored rather than independent expressions of opinion.

371. At the threshold, the Court is guided by the settled parameters governing the stage of framing of charge. The prosecution material, if taken at face value, must disclose a prima facie case against the accused. In a situation where two views are possible from the material relied upon by the prosecution, the prosecution must demonstrate that the material gives rise to grave suspicion. The opinion of the Court must rest strictly on the case as projected by the prosecution and not on conjectural amplification.

372. On the prosecution's own showing, out of more than fourteen thousand emails received in response to the public notice inviting comments on the Ravi Dhawan Committee Report, six emails are alleged to have been sponsored. Even if this assertion is accepted in its entirety for present purposes, the proportion and context are material. The consultative process was open and voluminous. The allegation, as framed, does not demonstrate that the process stood vitiated in substance or that the policy outcome was shaped, dictated, or materially influenced by these six communications.

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373. It is important to note that the distinction between suspicion and grave suspicion may, in an appropriate case, arise even at the level of the allegation itself. An allegation, taken at its highest and presumed to be true, may still yield two possible inferences, one suggestive of impropriety and the other indicative of a circumstance too slender to sustain a criminal charge. Where the allegation, on its own terms, discloses no more than an isolated or peripheral feature in a large consultative exercise, its acceptance does not automatically elevate it to the level of grave suspicion.

374. To attribute criminal design to an entire policy framework on the basis of six emails out of more than fourteen thousand emails is akin to attempting to pierce an elephant with a needle, the scale of the allegation is wholly disproportionate to the magnitude of the inference sought to be drawn. A circumstance which, even if assumed to be correct, carries no inherent gravity cannot be enlarged into grave suspicion merely by the seriousness of the conclusion sought to be attached to it. Thus, where the allegation itself admits of dual inferences and, even when presumed to be true, remains a minor or inconsequential circumstance within the broader consultative process, the statutory threshold for framing of charge is not satisfied. Even so, it would not be appropriate to discard the allegation in its entirety at this stage; the Court must proceed to examine the material placed by the prosecution in support of this

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allegation to ascertain whether, upon closer scrutiny, it discloses any substantive nexus warranting further consideration.

375. A holistic examination of the statements of PW-92 (Zakir Khan), PW-93 (Kartikey Azad), PW-94 (Kartikey Raja), PW-95 (Daksh Wadhwa) and PW-99 (Pulkit Bisht) reveals a uniform thread that significantly weakens the prosecution's allegation of a sponsored, orchestrated or coordinated attempt to sway the public-consultation process on the Expert Committee (Ravi Dhawan) Report. PW-92, the then Chairperson of the Delhi Minorities Commission, makes it abundantly clear that he neither understood nor examined the Ravi Dhawan Report, had no familiarity with the Excise Policy, and did not even read the handwritten note later mentioned in statement. His interaction with the Dy. Chief Minister, as per his own account, took place in the context of the Commission's financial requirements; during that routine meeting he was simply advised to visit the Excise Department's website and submit suggestions to the official email ID notified for public comments.

376. Nothing in his statement suggests that the A-8 dictated, influenced or approved any particular content, nor does PW-92 attribute any form of sponsorship or direction to him. On the contrary, the broader record reflects an explicit instruction within the Government to keep public-consultation emails anonymous, which runs counter to the allegation that the A-8 sought orchestrated

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responses. The internal administrative context is clarified by PW-93, who states that the Ravi Dhawan Report was circulated to him on 12.01.2021 with a direction to analyse it from a legal perspective. Two days later, a brief written note identifying certain themes or points was handed over to facilitate the interns' study of the report. Significantly, PW-92 himself admits that he did not read this note. The note, therefore, does not indicate pre-drafted or politically motivated content; rather, it reflects an attempt within the Commission to familiarise junior staff with the subject-matter on which public comments were invited. PW-93's statement demonstrates that the exercise was internally generated, informal and academic in character, consistent with the training objectives associated with internships.

377. PW-94's evidence, when read alongside the material collected by the investigating agency, further exposes the fragility of the prosecution's suggestion that a group of interns sent multiple emails in an organised manner. PW-94 recalls a general instruction from PW-92 that they should send *"as many emails as possible,"* and mentions that ten to twelve interns were in the WhatsApp group, with some possessing multiple email accounts. Yet, the CBI investigation could trace only six emails originating from this group. This stark disparity between the alleged instruction and the actual number of emails sent demonstrates the absence of any large-scale or impactful campaign. Against the backdrop of more than 14,000 emails received

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by the Excise Department pursuant to the public notice, these six emails stand as numerically insignificant and devoid of any capacity to influence or alter the outcome of a broad-based consultation.

378. The alleged scale of email activity is disproved by recovered evidence; the supposed sponsorship stands contradicted by PW-92's own ignorance of the subject-matter; and the participation of interns underscores transparency rather than covert mobilisation. Thus, the prosecution's theory rests not on admissible material, but on layered assumptions: first, that an untraceable and unread note constituted a directive; second, that such a note translated into sponsored content; and third, that six anonymous emails could meaningfully affect a consultation process involving thousands of responses. Each of these assumptions stands contradicted by the prosecution's own witnesses. In essence, the consolidated statements of PW-92 through PW-99 establish that the Delhi Minorities Commission merely undertook an internal review of the Expert Committee Report and submitted a handful of comments through the same channel available to all.

(vii) Destruction of mobile phone

379. At the stage of consideration of charge, this Court is required to examine whether the material placed on record discloses a prima facie case attracting the ingredients of the offence alleged. Tested on this settled parameter, the allegation that the then Deputy

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Chief Minister (A-8) caused the destruction of his earlier mobile phone so that no incriminating material may be found against him does not, in the opinion of this Court, satisfy the statutory requirements of Section 201 of the IPC. Section 201 IPC contemplates a deliberate act of causing disappearance of evidence of an offence, with the knowledge or reason to believe that such offence has been committed, and with the intention of screening the offender from legal punishment. Thus, even at the threshold, the prosecution is required to place material showing: (i) the existence of evidence relating to a specific offence; (ii) knowledge thereof on the part of the accused; and (iii) a conscious act of destruction undertaken with the requisite intent to screen oneself or another from punishment.

380. In the present case, the prosecution allegation proceeds on the premise that the accused caused the destruction of his mobile phone to ensure that no incriminating material could be recovered against him. However, the record is conspicuously silent as to what incriminating material is alleged to have existed on the said device. No specific message, call, document, or digital communication has been identified as having been generated, transmitted, or stored on the phone which could be said, even prima facie, to constitute evidence of the alleged offence. The prosecution thus invites the Court to presume the existence of incriminating material solely on the basis of the

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alleged destruction of the device. Such an approach is legally impermissible.

(emphasis supplied)

381. At the stage of framing of charge, suspicion may suffice, but the suspicion must be founded on material placed on record, and not on conjecture or reverse inference. The mere allegation that a device was destroyed to prevent recovery of incriminating material cannot substitute for the foundational requirement. Section 201 IPC does not criminalise the act of ensuring absence of evidence in the abstract; it penalises the deliberate disappearance of existing evidence of an offence, accompanied by the requisite mens rea. It is also relevant to note that a simpliciter change of a mobile handset, followed by disposal or destruction of the earlier device, is not per se unlawful.

382. In the absence of material suggesting that the device contained incriminating data, such conduct cannot be elevated to an inference of culpable intent. Crucially, the prosecution has not placed any material to show that the accused acted with the intention of screening himself from legal punishment by causing disappearance of specific evidence. The essential element of mens rea under Section 201 IPC thus remains unsubstantiated. To permit the charge to proceed on the basis of a presumed existence of incriminating material would

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amount to converting suspicion into admissible material, which the law does not countenance even at the stage of charge.

383. In these circumstances, this Court is of the considered view that the allegation relating to destruction of the mobile phone, as framed, does not disclose the essential ingredients of an offence under Section 201 IPC. The material on record falls short of establishing a prima facie case, and the invocation of Section 201 IPC on this count cannot be sustained at the stage of framing of charge.

(C) Final analysis qua A-8

384. Having examined each allegation independently and cumulatively, this Court finds that the prosecution case, as projected, does not survive judicial scrutiny at the threshold stage.

385. The fixation of the 12% wholesale margin, the structural decision to privatise the wholesale trade, the zoning of retail vends, and the formulation of the *"related entities"* clause have all been examined in the light of the Ravi Dhawan Committee Report, the successive draft GoM reports dated 15.03.2021, 19.03.2021 and final GoM report dated 22.03.2021, the Minutes of deliberations dated 05.04.2021, the Cabinet approvals, and the contemporaneous file notings. When these documents are read sequentially and in conjunction with the statements of the relevant witnesses, what emerges is a process of policy evolution marked by structured

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deliberation and administrative refinement. The record reflects continuity, consultation and institutional engagement. None of these clauses, whether viewed individually or collectively, discloses a departure so abrupt or unexplained as to justify an inference of criminal intent. Policy choices, even if debatable or subsequently reconsidered, cannot be equated with criminal conspiracy in the absence of material demonstrating quid pro quo, concealment or corrupt inducement.

386. The theory of overarching conspiracy similarly fails to find support in the material placed before the Court. There is no evidence placing A-8 in any clandestine meeting or conspiratorial assembly. No witness has stated to his participation in any secret deliberation for unlawful gain. No admissible material demonstrates his involvement in any alleged cash transaction. The prosecution has not produced a single recovery, document or financial trail linking him with the alleged transfer of funds. The allegation of monetary exchange remains unsubstantiated so far as he is concerned.

387. The attempt to connect A-8 with the alleged money movement is sought to be routed through A-3. However, there is no legally admissible material to establish that A-3 acted as a conduit for A-8. The relationship between them is inferred rather than demonstrated. The link sought to be drawn between A-8 and the

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alleged acts of A-3 rests on conjecture and assumption rather than demonstrable nexus.

388. More fundamentally, the prosecution narrative suffers from an internal contradiction that strikes at the root of the conspiracy theory. The contemporaneous documentary record establishes that the formulation and processing of the DEP-21/22 involved consultation at the highest executive level. The file notings record discussions with the Hon'ble LG, incorporation of suggestions, approval by the Council of Ministers, and subsequent apprisal of the Hon'ble LG. The material shows institutional participation of the LG Secretariat in scrutiny and movement of the file. It further reflects that the policy was neither concealed nor processed in isolation, but travelled through recognised constitutional channels.

389. In such a scenario, the theory of conspiracy cannot selectively survive against one constitutional authority while being rendered inapplicable to another on the basis of the very same material. A charge of unilateral manipulation cannot logically and legally be sustained against the Deputy Chief Minister (A-8) alone when the documentary chain demonstrates deliberation, consultation and processing through the office of the Hon'ble LG. The same notings cannot, in law, exonerate one authority while simultaneously incriminating another, when both are reflected in the same institutional record.

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(emphasis supplied)

390. The record also shows that during the relevant period, the power of transfer of officers, including the Excise Commissioner, vested with the competent constitutional authority and was exercised on multiple occasions. This underscores the fact that the administrative framework was neither static nor subordinate to a single individual. The Hon'ble LG and the senior officers of the LG Secretariat were integral to the movement and scrutiny of the file. If the prosecution case were to be taken to its logical conclusion on the premise of manipulation in policy formulation, it would inevitably extend to those very authorities who processed, examined and apprised themselves of the policy. Yet no such allegation is pressed.

391. This observation does not imply that any other constitutional functionary ought to have been arraigned as an accused. On the contrary, the contemporaneous record, when objectively examined, discloses no unilateral manipulation by A-8. The material reveals a process marked by consultation, communication and administrative engagement at multiple levels. Once it is shown that the policy travelled through established constitutional channels and was processed in accordance with the Transaction of Business Rules, the foundation of a selective conspiracy allegation collapses.

392. The cumulative assessment, therefore, is unambiguous. The structural features of the policy do not disclose criminal intent.

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The alleged conspiracy lacks demonstrable agreement or meeting of minds. There is no material placing A-8 in conspiratorial meetings. There is no substantiated financial trail linking him to any cash transfer. There is no admissible evidence that A-3 acted as his conduit. The documentary record reflects institutional deliberation rather than clandestine orchestration.

393. On the material as it presently stands, the prosecution has failed to establish even a prima facie case against A-8. The allegations, when tested against the contemporaneous record and the statements of the prosecution's own witnesses, do not generate grave suspicion warranting trial. The edifice of conspiracy, built upon inference and selective reading of the record, stands dismantled when the documents are read as a whole.

Allegations against A-1 and A-2

394. The prosecution alleges that A-1, Kuldeep Singh, then Deputy Commissioner (IMFL), and A-2, Narender Singh, then Assistant Commissioner (IMFL), Excise Department, GNCTD, acted in concert with private accused persons, including accused Vijay Nair and A-7 Sameer Mahendru, to facilitate the grant of an L-1 wholesale licence to M/S Indospirits by bypassing the statutory scheme and policy safeguards governing excise licensing. It is alleged that upon receipt of a complaint dated 18.10.2021 alleging cross-funding and cartelisation involving M/S Indospirits and M/S KGRL, A-1 directed

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that material allegations relating to EMD funding and common financial interest not be incorporated in the show-cause notice and that no effective enquiry be undertaken.

395. It is further alleged that when a second L-1 application dated 29.10.2021 was filed, despite patent deficiencies and the pendency of related proceedings before the Hon'ble Supreme Court, A-1 and A-2 ensured that the application was processed and approved on 05.11.2021 in undue haste. According to the prosecution, A-2 restrained the dealing staff from issuing the proposed deficiency memo, assured that he would personally procure the requisite documents, and caused such documents to be placed in the official file on 05.11.2021 without any covering letter, diarisation or proper receipt, following which the licence was approved with the concurrence of A-1.

396. The prosecution further alleges that A-2 received illegal gratification of Rs. 30 lakhs from accused Sameer Mahendru (A-7), through the coordination of approver Dinesh Arora (PW-20) and at the instance of Accused Vijay Nair (A-3), as consideration for expediting and securing the L-1 licence in favour of M/S Indospirits. It is alleged that A-1, by his acts and omissions, abused his official position to extend undue favour to M/S Indospirits in furtherance of the aforesaid arrangement. On the basis of these allegations, the prosecution asserts

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that A-1 and A-2 are liable for offences punishable under Section 120-B of the IPC read with Sections 7, 7A and 8 of the PC Act, 1988.

Analysis

File Movement and Alleged Procedural Irregularity

397. The earlier excise policy was characterised by manufacture-controlled wholesale and retail operations as pointed by Ravi Dhawan report, whereas DEP-21/22 envisaged a complete transition to a system anchored in private wholesalers and private retailers operating under a newly introduced licensing regime. This re-engineering of the supply chain, from manufacturers to consumers, necessarily required the issuance of fresh licences, onboarding of new entities, realignment of logistics, and readiness across multiple tiers of administration.

398. It is also of material significance that the DEP-21/22 was scheduled to come into force on 17.11.2021, leaving a narrowly circumscribed time window for its operationalisation. The limited interregnum between notification and implementation inevitably required prompt administrative action to ensure that the new framework became functional on the appointed date, without disruption of supply or breakdown of lawful trade.

399. Viewed in this backdrop, the expeditious movement of files or processing of licence applications cannot be examined in

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isolation. Any such assessment must account for the scale of the transition mandated by the policy, the impending date of implementation, and the administrative imperative of continuity. The contextual foundation thus established is essential before evaluating any allegation of undue haste or impropriety.

One day clearance of file for the grant of L-1 Licence

400. The allegation of undue favour on account of one-day clearance of the L-1 licence is neutralised when examined in the undisputed context of the time-bound implementation of the DEP-21/22. As brought on record through Ashok Kumar (PW-7, Section Officer, Policy, Delhi Excise Department) and the contemporaneous documentary material (D-150 and D-153), retail sale under the DEP-21/22 was scheduled to commence from 17.11.2021, and the old and new regimes could not operate simultaneously beyond the transition window. The Transition Report (D-153) records that a Committee was constituted *"for preparing a transition policy,"* that the transition was to be carried out *"in a smooth and time bound manner,"* and that parallel running was *"bleak due to technical reasons"* and *"does not appear to be feasible,"* necessitating a clean cut-off with advance timelines. The report further records uniform schedules, procedural safeguards, and the requirement of approximately 60 days for label approval and inventory build-up.

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401. Read in this backdrop, the statement of PW-7 assumes significance. PW-7 places on record that out of thirteen L-1 licences granted, the file of M/S Gautam Wines Private Limited was cleared within a single day on 11.11.2021, that three entities were granted licences on the very same day as M/S Indospirits, and that licences were granted even on 03.11.2021, which goes against the stand of prosecution that it was a non working day. The urgency in processing licences in early November 2021 thus stands fully explained by policy compulsion and technical constraints, rendering the prosecution's attempt to isolate the case of M/S Indospirits wholly unsustainable.

402. The internal movement of the file is further clarified by the conjoint statements of PW-18 (Smt. Suman), the Section Officer handling IMFL matters, and PW-19 (Sachin Solanki), the dealing assistant. Read together, they present a consistent and coherent account demonstrating that the processing of the L-1 licence followed the established departmental structure and ordinary administrative practice.

403. PW-18 consistently states that the processing of the first L-1 application dated 09.09.2021, the handling of the cartelisation complaint, the withdrawal of that application, and the scrutiny of the fresh application dated 29.10.2021 all occurred within the ordinary departmental framework. She records that *"successive deficiency memos were issued after line-by-line examination,"* and explains

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routine office practice by stating that *"at time of work pressure, peon directly gives the letters/dak to the concerned dealing assistants as per direction of senior officers."* She identifies her own signatures and those of the dealing assistant, Assistant Commissioner and Deputy Commissioner on the notesheets, thereby confirming supervisory scrutiny at every stage.

404. PW-19 fully corroborates this account and sharply circumscribes his role, stating that *"my duty is to put the documents/applications… in the form of noting."* He confirms working under PW-18's supervision and details issuance of deficiency memos dated 28.09.2021, 14.10.2021 and thereafter, all after approval of superior officers. In relation to the cartelisation complaint, he deposes that he was instructed *"to put up only the issues related to L-1 application,"* and confirms that *"Sh. Narender Singh… deleted the point No. c and last line in point No. e."* Most significantly, he states that the decisive recommendation note in the fresh application was settled by the Deputy Commissioner himself: *"Sh. Kuldeep Singh, DC inserted in the said note the portion of the complaint which he considered fit… in his handwriting,"* after which PW-19 merely typed the note and signed as instructed. He further confirms that the undertakings of Sameer and Geetika Mahendru *"were not placed in the file"* at the relevant time and *"might have been taken and placed… by Sh. Narender Singh, AC or Sh. Kuldeep Singh, DC."*

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405. The chronology surrounding the first L-1 application dated 09.09.2021, its subsequent withdrawal, and the later grant of licence to M/S Indospirit is of material relevance while examining the prosecution's allegation of conspiracy and recoupment. The initial application was moved in the name of IMPL (Joint Venture partnership firm) with Indospirit Distribution Limited and Indospirit Marketing Pvt. Ltd. as its constituent partners. The same is evident from the contents of the application form dated 09.09.2021 as well as the undertaking dated 25.08.2021. The relevant extract of application form and undertaking thereof is reproduced below for the sake of ready reference:

> *"….3) That in case of joint venture firm:*
>
> *(i) Indospirit Distribution Limited individually have liquor distribution turnover of minimum Rs. 150 Crore per annum.*
>
> *(ii) Indospirit Distribution Limited* ***is one of the Joint Venture partner*** *and individually have therequired experience of 5 years in wholesale distribution of liquor and;…".*

> *"….Ref. No.: MK/BD/DL/GEX/21/08/769 25th August 2021*
>
> ***UNDERTAKING***
>
> *We, Indospirit Marketing Private Limited, with registered office at B-230, Okhla Phase-1, New Delhi-110020, hereby declare that the turn over and experience of* ***joint venture partners i.e. Indospirit Marketing Private Limited and Indospirit Distribution Limited*** *have not been added for the purpose of qualifying the minimum eligibility criteria…".*

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- **Misleading Projection of Record by the Investigating Officer an impact on fair trial**

406. At this stage, it also becomes necessary to juxtapose paragraph 16.20 of the charge-sheet with the contemporaneous document forming its basis. Paragraph 16.20 reads as under:

> *"16.20 The investigation revealed that as per joint venture agreement submitted by M/S Indospirit Marketing Pvt Ltd, in pursuance to its application dated 09.09.2021 for grant of L1 license, the partners were M/S Indospirit Distribution Ltd (35%), Shri Buchi Babu (16.25%), Shri Prem Rahul Manduri (32.5%) and Shri A.R. Pillai (16.25%). As per ROC records, Sh. Sameer Mahendru and his wife Smt Geetika Mahendru are the major shareholders in M/S Indospirit Distribution Ltd."*

407. Read plainly, the above paragraph conveys in unequivocal terms that, at the time of the application dated 09.09.2021, the joint venture partners included A-11, A-5 and PW-275. The natural and immediate impression created is that these individuals formed part of the applicant entity from the very inception of the L-1 application process.

408. However, when D-73 (6003), namely the application dated 09.09.2021, is examined, a materially different position emerges. The applicant had applied as Indospirit Marketing Pvt. Ltd. (Joint Venture) with IMPL and IDPL as its constituent partners. The names now projected in paragraph 16.20 do not find place as partners in that original application. The composition reflected in the charge-

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sheet corresponds to a later stage, after reconstitution, and not to the application dated 09.09.2021.

409. The distinction is not trivial. The prosecution case proceeds on the footing of a pre-planned conspiracy and prior crystallisation of roles. By presenting the later composition as if it existed at the time of the initial application, the charge-sheet creates an impression of continuity and design that is not borne out by the document relied upon. The original application does not support the inference sought to be drawn.

410. The manner in which paragraph 16.20 is framed, without clarifying that the partners mentioned therein were inducted subsequently, has the effect of advancing the prosecution theory of conspiracy. Had the document D-73 (6003) been read in its proper context, the foundation for suggesting that A-11, A-5 and PW-275 were embedded in the applicant entity at the inception would not stand. The presentation in the charge-sheet thus departs from the contemporaneous record and tends to mislead by omission of a crucial temporal distinction.

(emphasis supplied)

411. When the chronology is read as a whole, the initial application dated 09.09.2021 was in the name of IMPL (JV) with IMPL and IDPL as partners. The reconstitution occurred later. Any

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attempt to retrospectively attribute the later partnership structure to the original application distorts the sequence of events and artificially strengthens the allegation of a pre-existing conspiracy.

412. At that stage, A-5 and A-11 (Butchibabu Gorantala), who are projected by the prosecution as proxies of A-17 K. Kavitha, as well as PW-275 Prem R. Manduri, who is sought to be linked as a conduit of the approver PW-226 Raghav Magunta, were admittedly not part of the applicant entity. This assumes significance in view of the prosecution's assertion that an amount of ₹25 crores had already been paid as *"upfront money"* pursuant to the alleged conspiracy. If such payment had already been effected and the roles attributed to A-5, A-11 and PW-275 had stood crystallised, the absence of these persons from the applicant JV at the time of the September 2021 application remains unexplained. Even after issuance of the second deficiency memo, though the JV was sought to be reconstituted by replacing IMPL Pvt. Ltd. with A-5, A-11 and PW-275, the application continued to suffer from inherent defects of eligibility.

(emphasis supplied)

413. The material on record shows that IMPL (JV) failed to satisfy the turnover requirement in a manner permissible under the Policy, having relied upon impermissible agent-based turnover and statutory documents not standing in the name of the L-1 applicant. These were not curable procedural deficiencies but went to the root of

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qualification, leading to withdrawal of the application dated 09.09.2021. It was only thereafter that a fresh application was moved in the name of M/S Indospirit (JV), with IDL, A-5 and PW-275 as partners, wherein the turnover was computed in accordance with the Policy, documentary requirements were fulfilled or duly undertaken in the applicant's own name, and the threshold eligibility of ₹150 crores was met. The grant of the L-1 licence to M/S Indospirit thus followed from objective satisfaction of eligibility conditions, and not from any pre-existing assurance or continuity with the earlier IMPL (JV) application. Viewed cumulatively, the sequence does not support the prosecution theory of a pre-planned conspiracy, advance payment, or assured mechanism of recoupment, and correspondingly weakens the projection of A-5 and A-11 as conduits acting pursuant to any alleged understanding emerging from the purported meeting at ITC, Hyderabad.

414. The prosecution has sought to contend that, despite the filing of a writ petition by PW-6 Varun Chaudhary before the Hon'ble Supreme Court on 05.11.2021 alleging cartelisation, Accused Nos. 1 and 2 proceeded to grant the L-1 licence to M/S Indospirit on 05.11.2021 in undue haste and in disregard of pending judicial proceedings.

415. The material on record does not support such a proposition. PW-5 has stated: *"I state that the said petition is regarding*

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allegations of cartelization amongst Indospirits, Khao Gali, Magunta Srinivas Reddy, Balaji Group, etc. The said letter of Varun Chaudhary dt. 06.11.2021 regarding filing of the writ petition (Crl.) No.19184 of 2021 on 05.11.2021 has been forwarded to the lawyers of the department on 08.11.2021 as per markings on the said letter by Assistant Commissioner (Litigation) Sh. Ajay Kumar Gambhir. He also marked the copy of the same to Assistant Commissioner, IMFL…".

416. PW-6 has further produced before the investigating agency the original receiving dated 08.11.2021 on his letter dated 06.11.2021. It thus stands established that although the letter bears the date 06.11.2021, it was in fact received in the Department only on 08.11.2021.

417. At this juncture, it becomes necessary to scrutinise the manner in which paragraph 16.25 has been introduced in the charge-sheet. The prosecution proceeds on the footing that the petition was received in the Excise Department on 05.11.2021, evidently with the object of suggesting that, despite awareness of allegations of cartelisation and blacklisting, A-1 and A-2 acted thereafter with undue haste. The relevant extract reads:

> *"16.25 Investigation revealed that a petition was filed by Shri Varun Chaudhary before Hon'ble Supreme Court of India on 3.11.2021 regarding the same allegations of cartelization and blacklisting against M/S Indospirit Group and others.* ***The copy***

of the said petition was received in the Excise Department of GNCT of Delhi on 5.11.22."

418. The stress placed upon the date of receipt is clearly deliberate. It forms the foundation of the timeline sought to be constructed by the prosecution so as to attribute prior knowledge to the departmental authorities and to advance the allegation that subsequent action was taken in undue haste.

419. However, the record does not support this assertion. PW-5, the record keeper and custodian of the inward register, does not depose that the complaint was received on 05.11.2021. PW-6, the complainant himself, has categorically stated that the complaint was got received in the Department on 08.11.2021. The documentary trail and the oral evidence thus consistently indicate 08.11.2021 as the date of receipt.

420. In this backdrop, the mention of 05.11.2021 in the charge-sheet stands at variance with the very material relied upon by the prosecution. The advancement of the date has the effect of artificially extending the period between receipt of the complaint and the impugned action, thereby attempting to lend support to the allegation of undue haste. Without such advancement, the foundation for that allegation becomes untenable.

421. The investigative process demands fidelity to the record. Where the timeline reflected in the charge-sheet departs from the

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documentary and oral evidence on record, and that departure operates to the prejudice of the accused, the Court cannot overlook the inconsistency. The duty of the investigating agency is to present the facts as they emerge from the record, not to adapt them to reinforce a predetermined narrative.

(emphasis supplied)

422. The sequence is therefore unambiguous. The alleged intimation of filing of the writ petition is dated 06.11.2021; it was received on 08.11.2021; and only thereafter was it marked to the concerned branch. In the absence of any material showing earlier receipt or prior circulation, there is no basis to presume that A-1 and A-2 had knowledge of the filing of the petition before 08.11.2021. The mere date mentioned on the letter cannot substitute proof of its communication or receipt.

423. In this backdrop, the attempt to attribute prior knowledge to A-1 and A-2 on the basis of the date of the petition alone, while ignoring the proved date of its receipt in the Department, is not borne out from the record. The prosecution evidence itself establishes the actual timeline. Any suggestion to the contrary amounts to placing a version before the Court that is inconsistent with its own documentary foundation, which raises serious concern regarding fairness in presentation of facts.

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424. It is equally settled that the filing of a petition does not, by itself, operate as a restraint on administrative action. Unless a court grants an interim order or stay, statutory authorities are not precluded from proceeding in accordance with the governing policy and applicable rules. No material has been placed on record to indicate that any such interim protection was in force restraining the Department from processing or disposing of the application of M/S Indospirit at the relevant time.

425. In these circumstances, the continuation of the licensing process cannot be characterised as irregular or mala fide. Tested against the documentary record, the allegation does not advance beyond conjecture.

Unregistered Joint Venture Agreement (JVA)

426. One of the allegations levelled by the prosecution is that M/S Indospirits was granted the L-1 licence without furnishing a registered Joint Venture Agreement (JVA). The said allegation, on the face of the record, does not withstand scrutiny. PW-17 has categorically addressed this issue and has stated "*On being asked regarding the non-registered JV agreement and grant of licence to M/S Indospirits on the basis of said agreement, I state that it is nowhere mentioned in the Policy that JV agreement should be registered, hence, in my opinion it was not mandatory...*".

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427. The aforesaid statement clearly establishes that neither the Excise Policy nor the governing licensing framework prescribed registration of a Joint Venture Agreement as a mandatory pre-condition for consideration or grant of an L-1 licence. Thus, the very foundation of the allegation stands negated by the prosecution's own witness.

428. Even otherwise, there is no statutory mandate requiring a Joint Venture Agreement to be compulsorily registered. The Registration Act, 1908 exhaustively enumerates the categories of documents for which compulsory registration is required, and a Joint Venture Agreement does not fall within the ambit of such compulsorily registrable instruments. In the absence of any statutory requirement, non-registration of a JVA cannot be treated as a legal infirmity.

(emphasis supplied)

429. A perusal of D-73 (page 5999), containing the checklist applicable to applicants seeking an L-1 licence, sets the issue at rest. Clause 4 mandates submission of the Memorandum and Articles of Association of the company, or the Partnership Deed under the Partnership Act, 1932, or the Certificate of Registration in the case of a Cooperative Society, or the Partnership Deed under the Limited Liability Partnership Act, 2008, or the Joint Venture Agreement together with the list of Directors/partners/members of the company/firm/society, or Form-32 in the event of change from the MOA.

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430. Significantly, the checklist does not stipulate that the Joint Venture Agreement must be a registered instrument. The requirement is confined to furnishing the JV Agreement along with particulars of the Directors/partners/members, depending upon the constitution of the applicant entity. There is no condition that only a registered copy would be acceptable.

431. This position finds affirmation in the deposition of PW-17, who has stated that the application was scrutinised and processed strictly in accordance with the checklist available on the portal. When the governing checklist itself does not mandate submission of a registered JV Agreement, the argument that non-filing of a registered copy constituted any procedural irregularity is without basis.

432. In these circumstances, the charge on this count is bereft of factual support. The documentary stipulation and the oral statement are consistent with each other, and no infirmity is discernible in the processing of the application on this aspect.

433. Further, where the parties to the Joint Venture themselves do not dispute the execution, validity, or enforceability of the agreement, the absence of registration does not render the document non-est or defective for the purposes of administrative scrutiny. Such a circumstance cannot, by any stretch, constitute a

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deficiency warranting rejection of an application for grant of an L-1 licence.

434. It is also pertinent to note that the L-1 licence granted to M/S Indospirits on 05.11.2021 was expressly made subject to fulfilment of conditions, which were thereafter finalised on 08.11.2021. The grant was thus conditional and provisional in nature, in conformity with the established licensing procedure.

435. Viewed cumulatively, the allegation premised on the absence of a registered Joint Venture Agreement is legally unsustainable, contrary to the policy framework, unsupported by statutory mandate, and squarely contradicted by the statement of PW-17. The prosecution has also failed to point out any mandatory statutory document which was required prior to issuance of the L-1 licence and which was allegedly dispensed with. Once eligibility criteria stood satisfied, A-1 had no authority in law to withhold the licence dehors the statutory framework.

Disposal of complaint dated 18.10.2021

436. Though the prosecution has sought to project that it was the duty of A-1 and A-2 to deal with the complaint dated 18.10.2021, the record itself brings out that the allegation of cross-funding pertained to the retail domain, inasmuch as the alleged relationship between M/S KGRL and M/S Indospirit was a matter falling within

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the retail zone. Such a complaint, therefore, was required to be dealt with by the Retail Section, and not confined to the wholesale licensing stream. This position stands fortified by the institutional distribution of work. The issuance of retail licences (L-7V) was headed by Deputy Commissioner Anand Kumar Tewari and Assistant Commissioner Pankaj Bhatnagar, whereas wholesale licences (L-1) were processed in the section headed by A-1 and A-2. The allocation and distribution of work was carried out by Sh. Arva Gopi Krishna (PW-74), the then Excise Commissioner. The cartelisation complaint dated 17.10.2021 was, in fact, marked to both sections, and the process of retail licensing was supervised by the TEC.

437. Most decisively, D-186, being the statement under Section 164 of Cr.P.C. of Sh. Arva Gopi Krishna (PW-74), records that the TEC examined the complaints and *"recommended that there is no violation of tender conditions, excise policy,"* that technical and financial bids may be opened, and that upon further examination, the department found *"no prima facie violation of tender conditions and Excise Policy."* PW-74 further records that all documents, including EMD details, were forwarded to the Income Tax Department and that the department would *"wait for the report of the IT."* This contemporaneous statement squarely contradicts the prosecution's suggestion of suppression or falsity in relation to the cartelisation complaint.

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438. The cartelisation complaint dated 18.10.2021 was duly examined at the departmental level by the Retail Licence Section, which, at the relevant time, was headed by the then Deputy Commissioner, Shri Anand Kumar Tewari, and the Assistant Commissioner, Shri Pankaj Bhatnagar (PW-270). The complaint was processed through the prescribed institutional channel and subjected to scrutiny by the concerned branches competent to examine the specific allegations raised therein.

439. In the course of such examination, the matter was referred to the Accounts Branch for verification of the alleged financial irregularities, including the mode and source of deposit of EMD and participation fees, which formed the gravamen of the cartelisation allegation. The findings of the Accounts Branch were formally recorded in the departmental notings, including D-147 (94/N), and were taken into consideration while dealing with the complaint.

440. The relevant submissions, as recorded in the departmental file and relied upon while disposing of the cartelisation complaint, are reproduced below verbatim for ready reference:

> *"212.....The Accounts Branch has submitted that the money deposited by these firms in respect of E.M.D and participant fees by way of demand drafts in favour of the Excise Commissioner, treated as financial transactions made by the companies. There was no such sub-clause in the clause 6 of the tender document to the effect that the demand draft of requisite value should only be prepared by the participant*

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company/entity itself and that too from its own bank account. As such, all the demand drafts of requisitioned value whether it pertained to EMD or as participation fees, submitted by the intending bidders, were accepted by the TEC and were also honoured by the bank as and when deposited.

213 *The Accounts branch further submitted that as the source of funding (terms and conditions the intending bidders/companies managed the funds to deposit E.M.D or Participant fees and further, the relation of the alleged company with the entity/company from whom the funds were managed) may be a matter of economic offence. This fact can only be established through intense investigation by the specialized investigating agency having expertise in economic offences and also having jurisdiction of probe outside Delhi.*

214 *It is submitted that based on the documents uploaded by the bidder in pre-qualification bid and the clarifications received from these bidders later on, the TEC vide its minutes dated 04.08.2021 submitted its recommendations to worthy Commissioner for approval/consideration and the same had been approved and directions were issued to put for draw of lots & opening of technical bids and financial bids (P-33/N).*

215 *Further, after going through the contents of the reply submitted by M/S. Magunta Agro Farms Pvt. Ltd., M/S Raisen Marketing Pvt. Ltd. and Khaogali Restaurants Pvt. Ltd. it appears that there is no prima facie violations of the relevant clauses of Excise policy/Tender document dated 28.06.2021 and 13/08/2021 by the L-7Z Licensee….".*

441. A conjoint reading of the above notings demonstrates that the allegation of cartelisation was not brushed aside mechanically, but was examined on objective parameters prescribed under the DEP-21/22 and the applicable tender conditions. The Accounts Branch categorically recorded that neither Clause 6 of the tender document nor any other provision mandated that the EMD or participation fees

must necessarily emanate from the bidder's own bank account. Consequently, the acceptance of demand drafts by the TEC, and their subsequent honouring by the bank, was found to be fully compliant with the tender framework.

442. Further, the decision-making process was anchored in contemporaneous records, including pre-qualification documents, bidder clarifications, and the TEC minutes dated 04.08.2021, which culminated in approval by the competent authority and issuance of directions for draw of lots and opening of technical and financial bids. The replies furnished by the concerned licensees were specifically examined, leading to a recorded conclusion that no prima facie violation of the relevant clauses of the Excise Policy or Tender Documents was made out.

443. It is also significant to note that the complaint was disposed of only after seeking and examining replies from the entities concerned. It is not the case of the prosecution that the TEC or the officers heading the Retail Licence Section acted with any mala fide intent while dealing with the complaint. On the contrary, the record reflects that the Retail Licence Section dealt with the complaint diligently and with procedural propriety, confining itself strictly to issues falling within its statutory and administrative remit.

444. Once the competent departmental authority, after following the prescribed procedure, recorded a finding that no prima

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facie violation of the Excise Policy or tender conditions was disclosed, the complaint stood concluded at the departmental level. In such circumstances, it cannot be contended that Accused Nos. A-1 or A-2 granted licence to M/S Indospirit by first removing or neutralising the allegations contained in the cartelisation complaint. The record, instead, demonstrates that the complaint was independently examined, answered on merits, and thereby negating any inference of procedural impropriety, collusion, or abuse of position.

445. The cumulative effect of this evidence establishes that the file moved through a documented and hierarchical decision-making process, involving scrutiny at the level of the dealing assistant, Section Officer, Assistant Commissioner and Deputy Commissioner. The expeditious movement of the file stands explained by the compressed timeline necessitated by the implementation of the DEP-21/22, and not by any departure from procedure. On the contrary, the record demonstrates structured processing, supervisory oversight at every stage, and adherence to the established departmental mechanism, leaving no room for an inference of procedural irregularity in dealing with the complaint dated 18.10.2021.

(emphasis supplied)

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Alleged Bribe of ₹30 Lakhs to A-2

446. At the threshold, this Court records that the allegation of payment of ₹30 lakhs to A-2 by A-7 for expediting and securing the L-1 Licence in favour of M/S Indospirits, is founded solely upon the statement of the approver, PW-20, who is projected by the prosecution as its principal witness. It is well-settled that the statement of an approver, by its very nature, does not attain probative assurance unless it is independently corroborated on material particulars. The real inquiry, therefore, is not confined only to whether PW-20 has levelled such an allegation, but whether the record discloses any legally sustainable independent corroboration lending assurance to his version.

447. A careful examination of the sequence of statements of approver PW-20 places the Court on guard. In his first statement recorded under Section 161 of Cr.P.C. dated 21.09.2022, running into 12 pages and purporting to cover the prosecution narrative in detail, PW-20 makes no reference whatsoever to any payment of ₹30 lakhs or to any demand allegedly made by A-2. The said silence persists in the subsequent confessional statement recorded before the Ld. Judicial Magistrate on 30.09.2022, consisting of 17 pages, wherein again no such allegation finds place. Even thereafter, when supplementary statement under Section 161 of Cr.P.C. was recorded on 05.10.2022, the record remains bereft of any such assertion.

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(emphasis supplied)

448. It is only in the subsequent supplementary statement dated 27.10.2022 recorded under Section 161 of Cr.P.C. that, for the first time, PW-20 introduces a version suggesting such payment, and that too in the nature of hearsay, by stating: *"...Sameer Mahendru met me sometime in the end of October 2021 near Khan Market in Delhi and told me that his L-1 licence of Indospirits is not being issued by the Excise Department and he has met with Sh. Narender Singh, Assistant Commissioner, and paid him ₹30 lakhs…".*

449. The belated surfacing of so serious an allegation, absent from earlier statements, especially from the confessional statement under Section 164 of Cr.P.C., yet introduced through a statement under Section 161 of Cr.P.C., calls for heightened judicial caution. At this stage, the Court is faced with the legal issue whether the introduction of a new allegation under Section 161 of Cr.P.C., which did not find mention in the statement recorded under Section 164 of Cr.P.C., can by itself carry sufficient weight at the stage of charge, and what would be the evidentiary worth of such an improved version. The answer to this question, as noted by the Hon'ble High Court of Delhi in case titled as **Asit Mukherjee vs. State, 2024 SCC OnLine Del 1876,** wherein it is stated that the introduction of a new allegation which does not find mention in the statement recorded under Section 164 of Cr.P.C., and is thereafter sought to be introduced through a statement

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under Section 161 of Cr.P.C., would not be sufficient to charge the accused. The relevant extract is reproduced below for ready reference:

> *"10….The statement of the victim/complainant u/s 164 Cr.P.C. was recorded on 19.02.2018 but for the reasons best known to her she has not levelled any allegations against the petitioner in her said statement.* ***When in her first complaint dated 17.02.2018 she made allegations against the petitioner then what transpired between the two days i.e. between 17.02.2018 and 19.02.2018 that she has not made any allegations against the petitioner in her statement recorded u/s 164 Cr.P.C. which clearly shows her malafides against the petitioner.*** *She has even failed to inform her husband regarding the conduct of the petitioner and despite that she kept on visiting the office of the petitioner without making any complaint in regard to his conduct.*
>
> *11. The supplementary statement of the victim was recorded on 27.02.2018 but what prompted the IO to record the supplementary statement of the victim when her statement u/s 164 Cr.P.C. was already recorded on 19.02.2018. Now in the supplementary statement the victim has stated that the petitioner used to talk loosely with her but she does not remember the context of the talks. Here again the victim fails to mention as to what words were used by the petitioner against her which were offensive and amounted to outrage her modesty. During the course of the arguments, it was also pointed out by the Ld. counsel for the petitioner that as per the CDR analysis no calls were found to be made by the petitioner to the victim…."*.

450. A similar concern was expressed by the Hon'ble High Court of Allahabad in case titled as **Dharmendra and Ors. vs. State of U.P. (Criminal Misc. Bail Application Nos. 31695, 20006 and 30288**

of 2021, decided on 01.10.2021, where the High Court took note of an emerging practice concerning recording of supplementary statements under Section 161 of Cr.P.C. after recording of statement under section 164 of Cr.P.C and issued directions to the DGP of the State to take appropriate steps for discontinuing such a practice. The relevant extract is reproduced below for ready reference:

> *"9…In the matters in hand the prosecutrix/victim after giving her statement under Section 161 of the Code levelling allegations of rape against the accused, has given up the same in her statement recorded under Section 164 of the Code. The Investigating Officer then records the statement of the prosecutrix/victim again under Section 161 of the Codce and puts specific questions to her with regards to the said variations in her statements and records her answers to the said questions.*
>
> *10. The said action of the Investigating Officer is not appreciable. Putting questions to the prosecutrix/victim with regards to the change in version by her in the statements under Section 161 of the Code and in the statement under Section 164 of the code, clearly shows disrespect to the courts who have recorded the statements under Section 164 of the Code. The said statements under Section 164 of the code recorded by Judicial Magistrates is in discharge of their judicial functions and the act of recording of the said statements was a judicial act which performed by a public servant while discharging his judicial functions. The said document is relevant under Section 35 of Indian Evidence Act and also under Section 72 of Indian Evidence Act and, as such, assumes the character of being a public document.*
>
> ***11.*** *The statement made by the prosecutrix/victim under section 164 of the Code before the Magistrate stands on a high pedestal and sanctity during the course of investigation than that of her*

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statement recorded under section 161 of the Code by the Investigating Officer.

12. Though the Investigating Agency has unfettered powers to investigate a matter, but they cannot on their whims and fancy adopt a procedure which would clearly be challenging the sanctity of an act done by a court of law while discharge of a judicial function. By putting questions to the prosecutrix/victim in her second statement under Section 161 of the Code after recording of the statement under Section 164 of the Code relating to different versions in the said two statements, the Investigating Officer cannot frustrate the same and also make an attempt to make the purpose of the said exercise look a farce.

13. The act of putting specific questions pertaining to the variations in the said two statements by the Investigating Officer is viewed with an impression of clearly challenging the authority of a judicial act. The Investigating Officers have clearly exceeded their jurisdiction by proceedings to investigate in such a manner. The same appears to be with a sole purpose to frustrate the statements recorded by a Magistrate.

14. Even the Uttar Pradesh Police Regulations while dealing with the particular duties of Police Officers for "Investigations" in its Chapter XI do not in any manner authorize the Investigating Officers to act as such. Although Paragraph-107 of the same states that the Investigating Officer would not act as a mere clerk while recordings of statements but has to observe and infer. Paragraph-109 empowers for recording of supplementary statements. But the manner in which supplementary statements in the present matters have been recorded clearly show that they are for the sole purpose to put the variations to the witnesses and record the same.

15. This court thus finds that the manner in which the supplementary statements are recorded and the purpose for recording of the same is only and solely for frustrating the

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purpose of statements recorded under Section 164 of the Code and to negate and defeat the earlier statement of the prosecutrix/victim given under section 164 of the Code whether it is in favour or against the accused otherwise the sanctity of the statement under section 164 of the Code will loose its value. The same is neither the intent of Investigation nor is the purpose of it.

(emphasis supplied)

16. *The Director General of Police, Uttar Pradesh Lucknow is directed to look into the said new trend of Investigation as adopted and issue suitable guidelines for such matter so that the sanctity and authority of judicial proceedings are maintained and they should not be frustrated by any act done during Investigation….".*

(emphasis supplied)

451. These observations underscore that even if such a course may not, in a given case, be held to be per se illegal, it is a practice which cannot be encouraged, as it trenches upon the fundamental requirement of a fair investigation. The present case, prima facie, stands on an even more disquieting footing. Here, a confessional statement under Section 164 of Cr.P.C. of a person who was himself a participant to the crime had already been recorded. In such a situation, the investigative agency occupies a position of dominance, particularly when the maker of the statement thereafter seeks pardon from the Court. The adoption of a subsequent course of recording supplementary statements under Section 161 of Cr.P.C., in the above backdrop, has the effect of diluting the sanctity and purpose of the

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safeguards embedded in Section 164 of Cr.P.C. The statutory framework incorporates stringent safeguards in relation to the recording of confessional statements. It unequivocally assures the accused that, should he choose not to make a confession, he shall not be remanded to police custody. It further prohibits the recording of any confession by a police officer, even if such officer has been vested with any of the powers of a Magistrate under any law for the time being in force. Where a confession is recorded, the Judicial Magistrate is obliged to record a memorandum certifying that the accused was duly cautioned that he was not bound to make the statement and that, if made, it could be used as evidence against him, and further certifying that the confession was made voluntarily and constitutes a full and true account of the statement. The relevant portion of the Section 164 of Cr.P.C. is reproduced below for ready reference:

"Provided further that no confession shall be recorded by a police officer on whom any power of a Magistrate has been conferred under any law for the time being in force….(4) Any such confession shall be recorded in the manner provided in section 281 for recording the examination of an accused person and shall be signed by the person making the confession; and the Magistrate shall make a memorandum at the foot of such record to the following effect:

> *"….I have explained to (name) that he is not bound to make a confession and that, if he does so, any confession he may make may be used as evidence against him and I*

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believe that this confession was voluntarily made. It was taken in my presence and hearing, and was read over to the person making it and admitted by him to be correct, and it contains a full and true account of the statement made by him.

(Signed) A. B. Magistrate…".

452. The legislature has thus incorporated detailed safeguards for recording the confessional statement of an accused, as compared to the statement of a witness, to ensure voluntariness before recording such confession. These safeguards operate in consonance with Sections 25 to 30 of the Indian Evidence Act, which embody the general principle that a confession to the police or while in police custody is inadmissible. In this factual backdrop, the resort to recording supplementary statements under Section 161 of Cr.P.C. for the purpose of introducing new incriminating assertions appears, at the very least, impermissible in principle. In any event, the Court would be obliged to examine such allegations with circumspection and to apply the settled test applicable to approver evidence, namely, that it must be independently corroborated on material particulars.

(emphasis supplied)

453. The concern deepens when one notes that PW-20 was thereafter granted pardon on 16.11.2022, and his confessional statement under Section 306(4) of CrPC was recorded on 24.11.2022. In this post-pardon statement, he states that *"on 28/29 October 2021 Samir gave ₹30 lakhs to Narender Singh",* and he not only reiterates

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the allegation of ₹30 lakhs, but further introduces a new narrative and new accused, implicating the then Excise Commissioner, and referring to certain inspectors, thereby suggesting that another payment to the Assistant Commissioner (A-2) was made on his behalf. The approver states: "*shops were to be opened on 17 November 2021. Abhishek was facing difficulty in starting the shops. The government servants, in particular the Excise Commissioner and inspectors, were asking for money. To address the situation, Abhishek told me to meet the Commissioner of Excise. Vijay Nair told me to meet the Assistant Commissioner Sh. Narender Singh. He (Narender) agreed to take ₹3 lakh per shop and assured that the work will be done. I gave him ₹30 lakhs in cash at Khan Market. I made Narender and Abhishek coordinate through me. Total ₹2.10 crores were given to Narender through me …*".

454. Significantly, after the recording of the statement under Section 306(4) of CrPC, the investigating agency again examined PW-20 on three occasions, 05.04.2023, 23.04.2023, and 17.10.2023, by recording supplementary statements under Section 161 of Cr.P.C.. In none of these statements does PW-20 reiterate or elaborate upon the alleged payment of ₹30 lakhs or the payment of Rs. 2.10 crore. The Court finds it difficult to reconcile how an allegation of such gravity, if rooted in direct personal knowledge, repeatedly disappears from the witness's narrative only to resurface selectively at a particular

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juncture. The Court is, therefore, again confronted with the question as to whether the repeated recording of statements under Section 161 of Cr.P.C. by the CBI, in the manner reflected on record, is permissible after the recording of his statement under Section 306(4) of Cr.P.C, and what would be the evidentiary value thereof for the purpose of charge. The question appears to arise in the same context as earlier; however, it assumes a distinct dimension when examined in light of the condition of full and true disclosure.

455. The statutory scheme under Sections 306 and 308 of Cr.P.C. casts a clear obligation on the prosecution to ensure that an accused who has been tendered pardon fulfils the condition of *"making a full and true disclosure of the whole of the circumstances within his knowledge relative to the offence and to every other person concerned, whether as principal or abettor, in the commission thereof."* This condition cannot be treated as a mere formality, as it is intended to ensure that the approver is mandatorily required: (i) to make a full and true disclosure; (ii) of the whole of the circumstances within his knowledge; (iii) relative to the offence; and (iv) concerning every other person involved, whether as principal or abettor. The subsequent supplementary statements recorded under Section 161 of Cr.P.C. after the statement recorded under Section 306(4) of Cr.P.C., which itself was recorded on the above condition, prima facie raise a serious issue as to compliance with the condition on which pardon was

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tendered. If the material on record suggested that the disclosure was not full and true, the investigating agency was expected to consider recourse to Section 308 of Cr.P.C. for seeking withdrawl of pardon and trying the approver as an accused. Instead, the investigating agency proceeded to record three further supplementary statements under Section 161 of Cr.P.C., a course which, on the face of it, warrants scrutiny.

(emphasis supplied)

456. Where an approver's statement contains serious allegations against public servants, the investigating agency is expected to test such disclosure for completeness and veracity and, if found wanting, to consider the consequences contemplated under Section 308 of Cr.P.C for seeking withdrawl of pardon. Any indifference to this statutory responsibility, whether by failure to examine the disclosure or by selectively overlooking inconvenient portions, cannot be lightly disregarded. Despite the presence therein of a specific allegation touching upon demand of bribe against the then Excise Commissioner, the prosecution has chosen to cite him as a witness, stating that no incriminating material was found against him.

457. This Court is constrained to record, in clear and unmistakable terms, its serious displeasure at the manner in which the confessional statement under Section 306 (4) of Cr.P.C. was dealt with by the investigating agency.

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- **Conduct of the Investigating Officer and impact on fair trial**

458. What is even more disquieting is that the investigating agency initially represented to this Court that a copy of the said statement had not been supplied to it. However, upon the opening of the sealed cover and careful perusal of the record contained therein, it is found that the learned ACMM had categorically directed, *"The copy of statement be given to the IO, if application is moved to said effect and statement alongwith application and proceedings be sent to concerned court in sealed envelope through proper channel."* It subsequently emerged that the Investigating Agency had, in fact, received a copy of the statement upon submission of his own application of the same date, wherein at the bottom of the handwritten application the words *"submitted please"* appear, coupled with the endorsement *"Received a copy"* on the first page of the proceedings which took place for recording of the confessional statement under Section 306(4) of Cr.P.C., and the original application was found inside the sealed envelope.

459. A representation so made, which stands squarely contradicted by the record itself, cannot be countenanced. The conduct reflected from the record is wholly unsatisfactory and inconsistent with the duty of fairness, candour and transparency expected of an investigating agency. Further, the said statement was not supplied to the accused persons, a lapse that directly impinges upon the fairness

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of the investigation and strikes at the very root of procedural propriety.

460. The prosecution's own stand further weakens the approver's version. When the then Excise Commissioner has been examined as a prosecution witness on the premise that no material was found against him, the allegation that any bribe was demanded or collected on his behalf stands considerably diluted and, in the absence of corroboration on material particulars, cannot be sustained. Once this link is broken, the allegation against A-2 remains unsupported by any independent or objective material.

461. The record reveals a circumstance of considerable legal significance. The Investigating Officer has, in clear and categorical terms, recorded a finding that no incriminating material was found against the then Excise Commissioner, who has consequently been impleaded as a prosecution witness (PW-74). This admission by the investigating agency is not a matter of inference but flows directly from its own assessment, and unequivocally reflects that the allegations, at least to that extent, were found to be unsubstantiated and devoid of factual foundation.

462. Viewed in this backdrop, the subsequent conduct of the Investigating Agency in repeatedly recording supplementary statements of the approver under Section 161 of Cr.P.C., even after the grant of pardon, assumes critical importance. The very necessity of

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recording multiple post-pardon statements is indicative of the fact that the disclosure made by the approver at the relevant stages was neither complete nor exhaustive. A pardon under the Cr.P.C. is not an unqualified or unconditional indulgence; it is tendered subject to strict and well-defined conditions. Even at the cost of repetition, these conditions oblige the approver: (i) to make a full and true disclosure; (ii) of the whole of the circumstances within his knowledge; (iii) relating to the offence; and (iv) concerning every other person involved therein, whether as a principal or as an abettor.

463. The record, on its face, discloses a breach of these foundational conditions. The emergence of new facts, fresh explanations, and even additional accused persons, solely on the basis of supplementary statements recorded under Section 161 of Cr.P.C. after the grant of pardon, demonstrates that the approver did not comply with the essential requirement of making a full and true disclosure at the time when such disclosure was statutorily mandated. This is not a mere procedural lapse but goes to the root of the legality and sustainability of the pardon itself.

(emphasis supplied)

464. What further compounds the matter is that, despite such apparent non-compliance, the prosecution has not deemed it necessary to seek withdrawal or forfeiture of the tender of pardon, as contemplated under the statutory scheme. The Court finds it difficult

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to comprehend the rationale behind this omission. Instead of invoking the legal consequence of breach of pardon conditions, the investigating agency has chosen to rely upon successive Section 161 supplementary statements to progressively build, supplement, and reshape the prosecution narrative. Such an approach effectively permits the approver to enjoy the benefit of immunity, while simultaneously allowing the prosecution to fill gaps, introduce new versions, and widen the net of accused persons on the strength of statements which, in law, are of a limited and suspect evidentiary worth.

(emphasis supplied)

465. The evidentiary value and legal admissibility of such post-pardon supplementary statements recorded under Section 161 of Cr.P.C., particularly in the context of an approver who has failed to adhere to the conditions of pardon, have been examined and dealt with in detail. For the present, it suffices to note that this course of action not only undermines the statutory discipline governing approver evidence, but also raises serious concerns regarding fairness, reliability, and the integrity of the investigative process itself.

(emphasis supplied)

466. The Court also notes that the allegation regarding payment of ₹30 lakhs purportedly by A-2 is plainly hearsay. Such an assertion, in the absence of contemporaneous documentary support, recovery, or statement from any witness speaking from direct

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knowledge, cannot be accorded evidentiary value even at the stage of charge. Further, the circumstance that A-1 was arrayed as an accused and chargesheeted at the forefront, despite the absence of any direct or indirect allegation against him in this narrative, accentuates the fragility of the prosecution's approach. There is not even a single allegation in the statements of approver PW-20 naming A-1 as the recipient or stating that A-2 acted on his behalf. This Court notes that it is for the first time that it has come across a charge-sheet in which as many as seven statements of an approver have been recorded. No decision of any higher court has been placed before this Court to show that such a course has been adopted or approved in any other case.

(emphasis supplied)

467. Viewed cumulatively, the allegation of payment of ₹30 lakhs is founded on a solitary, shifting, and hearsay version of an approver, marked by late introduction, subsequent embellishment, and selective silence. The manner in which the investigating agency has dealt with the approver's statements, coupled with the absence of independent corroboration on material particulars, renders the allegation legally infirm. Even at the stage of consideration of charge, such a solitary approver statement, unsupported by credible corroborative material, cannot, by itself, furnish a sound basis for drawing grave suspicion against the accused.

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468. The prosecution witnesses discloses no demand, no acceptance, no abuse of official position, and no meeting of minds so as to attract offences under PC Act, 1988. The administrative acts attributed to A-1 and A-2 are documented, supervised, policy-aligned and institutionally vetted. The allegations founded on PW-20's statement stand neutralised by his own omissions in the statement recorded under Section 164 of Cr.P.C. Continuation of proceedings on such material would amount to subjecting the accused to trial on conjecture rather than legally admissible evidence.

469. Upon a careful, close and dispassionate scrutiny of the material placed on record, it becomes evident that the allegations levelled by the CBI against A-1 and A-2 are not the product of an objective or impartial investigation. The record, on the contrary, reveals a pre-meditated and choreographed exercise, wherein roles appear to have been retrospectively assigned to suit a preconceived narrative. What is particularly disturbing is the complete disregard shown by the investigating officer to the fact that public servants, who were discharging their official duties on a day-to-day basis for the effective implementation of a governmental policy, **have been subjected to criminal prosecution solely on the basis of inadmissible hearsay attributed to an approver, despite the investigation yielding no material against them**.

(emphasis supplied)

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470. The Court cannot lose sight of the fact that the period during which their conduct is sought to be questioned coincided with an unprecedented national crisis, when the entire country was grappling with the challenges posed by the COVID-19 pandemic. During this phase, the officials concerned were performing their duties under extraordinary pressure, often at personal risk, to ensure timely implementation of policy measures so that essential governance functions continued and the State did not suffer avoidable loss of revenue.

471. A government servant occupies an inherently vulnerable position, being duty-bound to take decisions and exercise discretion in the course of official functions. Viewed in this backdrop, the Court finds it difficult to comprehend how, in the admitted absence of incriminating material, these public servants were arrayed as accused, and how sanction for their prosecution came to be accorded despite the lack of any admissible material against A-1 and A-2. Such a prosecutorial construct is intrinsically fragile and cannot withstand judicial scrutiny when tested on the anvil of settled principles governing appreciation of evidence. The manner in which the investigation has been conducted, far from conforming to the discipline of a fair and lawful investigation, discloses a calculated and sustained assault on the foundational tenets of the rule of law.

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472. Equally troubling is the conduct of retaining an individual in the column of *"suspect"* while simultaneously presenting the very same person as a prosecution witness at the stage of filing of the charge-sheet. In the case at hand, Arva Gopi Krishna, the then Excise Commissioner, and Anand Kumar Tewari, the then Deputy Commissioner, have been placed in Column No. 12 and Arva Gopi Krishna has been cited as prosecution witness, namely PW-74. This self-contradictory stance cannot be brushed aside as a mere procedural irregularity. It betrays a conscious and calculated stratagem by which the investigating officer has sought to keep the narrative deliberately fluid, relying upon the individual's statement to prop up the prosecution case, while at the same time preserving the option of implicating that very person should the case, as projected, fail to withstand judicial scrutiny. Such dual positioning unmistakably reveals that the investigating officer was, from the outset, conscious of the inherent fragility of the allegations being advanced and apprehensive that the version placed before the Court might not survive close judicial examination.

(emphasis supplied)

473. This approach does not reflect prudence; it reveals anticipatory manipulation, designed to protect the investigator rather than to assist the Court in its pursuit of truth. It stands in stark opposition to the very concept of a fair investigation, which is an

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integral facet of due process. An investigating officer is not expected to act with tactical cleverness or strategic flexibility; he is required to proceed with candour, neutrality and unwavering fidelity to the factual record. An investigation must rest on a clear, consistent and principled assessment of the material collected, and not on calculated ambiguity intended to preserve future prosecutorial options.

474. The Court is therefore constrained to observe that such a course of action reduces the investigative process to a self-serving exercise, where legal technicalities are invoked not to uncover the truth, but to shield investigative lapses and to construct a post-facto defence in the event that suppression or distortion of material facts is exposed during judicial scrutiny. Such conduct amounts to a conscious abuse of official position and strikes at the very core of the criminal justice system.

475. In these circumstances, the course consistent with the duty of the Court is not merely to discount the tainted investigative material, but also to recommend initiation of appropriate departmental proceedings against the erring investigating officer for framing A-1 as an accused in the absence of any material against him, so that accountability is fixed and the institutional credibility of the investigative machinery is preserved. Reliance is placed upon the judgment of the Hon'ble Supreme Court in **Gajoo vs. State of Uttarakhand (2012) 9 SCC 532.** To permit such conduct to pass

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without consequence would erode public confidence in the administration of criminal justice and would amount to tacit judicial approval of investigative impropriety, an outcome which the rule of law does not permit.

Allegation against A-18

476. The prosecution alleges that A-18, Arvind Kejriwal, in his capacity as the Chief Minister of Delhi, occupied the apex position in, and exercised overarching control over, the criminal conspiracy relating to the formulation and implementation of the DEP-21/22. It is alleged that the policy was approved and implemented with his conscious knowledge that it conferred undue pecuniary advantage upon select private liquor interests associated with the so-called *"South Group",* and that Cabinet approvals, including Cabinet Decisions, were accorded with such awareness. The prosecution further alleges that A-18 was cognisant of the generation of illegal gratification arising from the policy framework and of its intended political utilisation, including for election-related purposes, and that he permitted the continuation of the policy and the alleged illicit arrangements despite knowledge of these aspects. According to the prosecution, his role was not limited to formal approval but extended to providing political sanction, protection and continuity to the acts of co-conspirators, thereby placing him at the apex of the alleged conspiracy and rendering him liable for the acts committed in

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furtherance thereof by public servants, intermediaries and private persons involved in the excise policy matter.

Analysis

477. The prosecution seeks to connect A-18 mainly on the basis of one sentence in the statement of the witness, namely PW-225 Magunta Sreenivasulu Reddy: *"Thereafter, he told me that Ms. K. Kavitha, daughter of Shri K. Chandershekhar Rao, the then CM of Telangana would be contacting me in this regard."*

478. At the outset, it is to be noted that the name of A-18 appears for the first time in the statement of PW-225 Magunta Sreenivasulu Reddy dated 03.01.2024. This statement was recorded in response to a specific query by the Investigating Officer as to whether he had met A-18 and whether anyone else was present at that time. The prosecution seeks to base the allegation against A-18 primarily on what is stated in that statement. The relevant extract relied upon by the prosecution reads as under:

> *"…On 16.03.2021, I went to the Delhi Secretariat and met Shri Arvind Kejriwal in his chamber at around 04:30 PM. When I reached there, around 10–12 persons were standing to meet Shri Arvind Kejriwal… Shri Arvind Kejriwal offered me a chair and told me that we could very well do the liquor business in Delhi and he would be supporting us in that.* ***Thereafter, he told me that Ms. K Kavitha, daughter of Shri K Chandershekhar Rao, the then CM of Telangana would be contacting me in this regard.*** *Shri Arvind Kejriwal further told*

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me to provide some monetary funding to his Aam Aadmi Party. It was a brief meeting, which lasted around 6–7 minutes…".

479. It is this extract, and particularly the line referring to Ms. K. Kavitha contacting the witness, on which the prosecution rests its case to connect A-18 with the alleged conspiracy. The question which arises is whether this statement, by itself, is sufficient to prima facie link A-18 with the alleged conspiracy. It cannot be disputed that, in a given case, even a single circumstance may assume significance if it forms part of a larger chain pointing towards a prior meeting of minds and acts done in furtherance of a common object. If the prosecution is able to demonstrate that such a circumstance is self-sufficient and intrinsically incriminating, it may legitimately contribute to raising grave suspicion.

480. However, the statement relied upon, when read in isolation, does not, on its plain terms, attribute any overtly illegal act. It does not, by itself, disclose the commission of an offence or an agreement to commit one. Its evidentiary value therefore depends entirely on whether it can be placed within a complete and coherent chain of circumstances. It is settled that in cases based on circumstantial evidence, the prosecution is not required, at the stage of charge, to establish the entire chain with the same degree of certainty as at the stage of conviction. Conspiracy is rarely proved by direct evidence and may be inferred from surrounding circumstances. At the same time, even at the prima facie stage, the circumstances relied upon

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must show reasonable continuity and proximity. Where there is a clear disconnection, or where the circumstances do not naturally align, the inference of conspiracy cannot rest on assumption.

481. The investigating agency may be granted some latitude in proving the manner in which a conspiracy was executed. But such latitude does not extend to foundational facts. The basic links which anchor the alleged conspiracy must be clearly borne out from the material collected. If the prosecution seeks the benefit of inference, the initial facts from which such inference is to be drawn must themselves be firmly placed on record. A conspiracy cannot remain unanchored; it must rest on identifiable material.

482. In the present context, the case against A-18 is projected as resting on circumstantial evidence and on the roles attributed to certain other accused said to be directly associated with him. If the material against such persons does not, by itself, survive to raise grave suspicion, then the case against A-18, whose role is stated to be supervisory or overarching, would necessarily stand on a weakened footing. Liability for conspiracy cannot be inferred in isolation. It must arise from circumstances which are proximate, consistent and mutually reinforcing. In the absence of such connecting material, a solitary statement of the nature relied upon cannot, by itself, meet the legal threshold required to proceed further.

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483. The role attributed to A-18 calls for careful and structured examination. It cannot be viewed in isolation, nor can it be assessed merely on the strength of broad allegations. The analysis has to proceed on two distinct but interrelated planes. *First,* it must be examined in the backdrop of the roles attributed to the other accused persons. *Secondly,* it must be examined in the context of the formulation and approval of the Excise Policy itself, bearing in mind the constitutional position occupied by A-18 as the Chief Minister at the relevant time.

484. In this regard, the role of A-8 assumes particular relevance. A-8 was heading the Excise Department as the Deputy Chief Minister and was directly associated with the policy domain in question. A-18, on the other hand, was the Chief Minister. The prosecution seeks to project A-18 as the central figure who allegedly manipulated the policy for the benefit of the so-called *"South Group"* and for the purpose of recouping alleged upfront money. This allegation is of a serious nature and forms the foundation upon which the subsequent allegations are constructed.

485. The prosecution further attempts to connect A-18 with the alleged utilisation of funds in the Goa election. However, this allegation is consequential and derivative. If the foundational allegation, namely, manipulation of policy in furtherance of a criminal design, does not prima facie withstand scrutiny, then the subsequent

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allegation regarding utilisation of funds would automatically lose its footing. The latter cannot survive independently if the former fails to disclose the necessary ingredients of conspiracy or criminal misconduct.

486. It is also significant that the inception of the alleged role of A-18 emerges for the first time in the Fourth Supplementary Charge-sheet. Until that stage, his name did not figure in the prosecution narrative in the manner now sought to be projected. The principal material relied upon to implicate him is the statement of PW-225, read in alignment with the statement of PW-226 (Raghav Magunta Reddy), who has been examined as an approver. It is through this material that the prosecution seeks to bring A-18 within the fold of the larger alleged conspiracy.

487. In these circumstances, it would be appropriate to commence the analysis from the allegations contained in the Fourth Supplementary Charge-sheet, being the chargesheet under which A-18 was arrayed as an accused. The Court shall therefore examine, in the first instance, the statement of PW-225, its contents, its legal character, and its capacity, if any, to connect A-18 with the alleged conspiracy. Only thereafter can the broader allegation of overarching control or political sanction be meaningfully assessed on the touchstone of the material placed on record.

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488. Even if the narration of PW-225's in his own statement accepted arguendo at face value, unmistakably discloses his conscious and active participation in the very arrangement which the prosecution seeks to characterise as a criminal conspiracy. His statement does not place him in the position of a neutral, chance or peripheral witness. On the contrary, he candidly acknowledges that he decided to enter the Delhi liquor business, sought an appointment with the Chief Minister for *"support and guidance"*, thereafter met A-17 (Ms. K. Kavitha), discussed entry into the Delhi liquor business, entertained and negotiated a demand of ₹100 crores as *"upfront money",* and then entrusted the actual handling of finances and logistics to his son who is approver Pw -226 . His own admissions, inter alia, include:

> *"…I came to know that a DEP-21/22 for the year 2021-22 was coming in Delhi. In order to expand the business, I decided to enter in the liquor business at Delhi."*
>
> *"I wanted to meet Shri Arvind Kejriwal, CM, Delhi for having some support and guidance for entering into the liquor business at Delhi…*"
>
> *"In the said meeting with Ms. K Kavitha, she told me that total amount of Rs. 100 Crores has to be arranged… She demanded Rs. 50 Crores from me…"*
>
> *"I told her that I would be discussing this matter with my son Raghav and get back in few days."*
>
> *"the matter regarding the payment of upfront money was totally handled by my son Shri Raghav… total payment of Rs. 25 Crores as upfront money was made by him…".*

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489. Read cumulatively, these admissions leave no manner of doubt that PW-225 is not narrating events as an external observer. His statement is self-incriminating in nature and discloses that both he and his son (PW-226) were active participants in the alleged transaction chain which the prosecution labels as conspiratorial. Though he has not been formally tendered pardon or examined as an approver, the intrinsic character of his statement places him squarely within the zone of a participant admitting engagement with the alleged scheme.

490. A serious infirmity that surfaces in the present matter is the apparent misconception of the legal position by the investigating and prosecuting agencies with regard to the evidentiary value of certain witnesses. The record indicates that individuals who have, in their own statements, admitted participation in the alleged transaction have been examined merely as prosecution witnesses, without being arraigned as accused and without being tendered pardon as approvers. Yet, their statement appears to have been treated on par with that of wholly independent witnesses. It is equally possible that the agencies were conscious of the settled position in law, but nevertheless sought to project such witnesses as independent in order to lend greater weight to their case.

491. This approach overlooks the settled distinction in criminal jurisprudence between an independent witness and one who is a participant in the alleged offence. It is undoubtedly within the

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discretion of the investigating agency to examine a co-participant as a witness, even without formally making him an accused or an approver. Such latitude exists to ensure that the truth is not suppressed merely because a person is complicit, and to enable the investigating machinery to unravel complex transactions. The law does not compel the agency to either prosecute every participant or necessarily tender pardon in each case.

492. However, this discretion is neither absolute nor immune from judicial scrutiny. It must be exercised in a fair, reasonable and non-arbitrary manner, consistent with the mandate of Article 21 and the broader principles governing criminal trials. The Hon'ble Supreme Court, in **Laxmipat Choraria (supra)** and later in **A.R. Antulay (supra)** as followed in **R. Dineshkumar @ Deena (supra)**, has recognised the permissibility of examining a *participes criminis* as a prosecution witness. At the same time, the Court has been careful to underscore that such evidence does not assume the character of independent statement. It must have been borne in the mind of the Supreme Court that such discretion, if left unchecked, could be misused by the investigating agency; it is for this reason that the Court has consistently held that the caution applicable to accomplice evidence must equally govern the appreciation of statement given by such witnesses.

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493. The law is explicit that the evidentiary value of such a witness is that of accomplice evidence. Even if the witness is not formally declared an approver, once he implicates himself in the commission of the offence, his statement stands on the same footing as that of an accomplice. It must, therefore, be received with the caution traditionally attached to accomplice statement. The rule of prudence, requiring independent corroboration on material particulars, comes into play. Trial Court is required to scrutinise such evidence with care, mindful of the possibility of self-exculpation, shifting of blame, or inducement.

494. The jurisprudential concern underlying these precedents is evident. While the investigative agency must not be hamstrung in unearthing the truth, the criminal process cannot be structured in a manner that allows a self-confessed participant to escape the rigour of prosecution while simultaneously furnishing the primary incriminating material against others, and yet be accorded the evidentiary stature of a neutral observer. To treat such statement as independent evidence would dilute the safeguards built into the law of evidence and would disturb the balance between effective investigation and a fair trial.

(emphasis supplied)

495. The basis for treating such statement with caution lies not in the description given by the prosecution, but in the nature of the

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evidence itself. When a witness admits his own involvement in the alleged offence and at the same time seeks to implicate others, his statement is necessarily affected by self-interest. Merely examining him as a general witness does not remove the taint arising from his admitted participation. Unlike an approver who is tendered pardon through a statutory process and remains subject to the consequences of any deviation from full and truthful disclosure, a self-confessed participant examined as an ordinary witness does not undergo similar safeguards. In such circumstances, the possibility of aligning his version with the prosecution to secure protection for himself cannot be ruled out. For this reason, the settled rule of prudence requires that his evidence be approached with the same caution as accomplice evidence and that it be relied upon only if there is independent corroboration on material particulars connecting the accused with the alleged offence.

496. Accordingly, the statements of witnesses who incriminate themselves, though examined as prosecution witnesses, cannot be elevated to the status of independent evidence. Their statement must be approached with circumspection and must find assurance from independent corroborative material before it can be acted upon. Any failure to apply this settled principle would amount to a clear misdirection in law.

497. The prosecution has attempted to support the statement of PW-225 by relying upon the statement of approver PW-226. This

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raises a basic question in the law of evidence: whether the statement of one accomplice-like witness can be treated as corroborated merely because it is supported by another accomplice or approver.

498. On the material placed before the Court, the position is straightforward. PW-226 does not claim to have personally witnessed the alleged meeting between PW-225 and A-18. His version, insofar as it concerns that meeting, is based on what was allegedly told to him by PW-225. To that extent, his statement is hearsay and cannot constitute independent corroboration. Corroboration in law must come from a source independent of the witness whose statement is sought to be strengthened.

499. The matter assumes further significance because PW-225 himself has stated that 10 to 12 persons were present at the time of the alleged meeting with A-18. Those persons were independent witnesses who, if examined, could have provided direct evidence as to what transpired. Their statements are not before the Court. It is not known whether they were never examined or whether they were examined but did not support the prosecution case. In either situation, the absence statement of such independent witnesses creates a serious gap.

500. Even if the prosecution seeks to rely upon certain surrounding circumstances referred to by PW-226 as corroboration on material particulars, the legal difficulty remains. The question is

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whether PW-225 can be treated as an independent source to corroborate PW-226, or vice versa. The answer must be in the negative. The Hon'ble Supreme Court in **K. Hashim (supra)**, followed in **Somasundaram (supra)**, has reiterated the settled principle that one accomplice cannot corroborate another. Corroboration must be independent. No exceptional circumstance has been pointed out by the prosecution to justify departure from this settled rule.

501. The charge-sheet further records that A-18 had stated that PW-225 had come to meet him regarding allotment of land in Delhi for a trust, and that this explanation was found to be false on the basis of PW-225's statement. At this stage, the defence version cannot be evaluated. However, the only direct assertion connecting A-18 to the alleged conspiracy, namely, the alleged statement that A-17 would call in that regard, rests solely on the uncorroborated statement of PW-225. The admitted presence of public persons during the conversation, coupled with their non-examination, leaves no material on record to bring the case within any recognised exception.

502. This assumes added importance because the alleged conversation was capable of direct verification through the very persons stated to be present. In the absence of such independent evidence, the prosecution case rests on one accomplice-like statement being supported by another. In law, such mutual reliance does not amount to corroboration.

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503. Accordingly, the statement said to directly connect A-18 remains absolutely uncorroborated by independent evidence. In the absence of such corroboration, it cannot be treated as sufficient to sustain the allegation.

504. Upon consideration of the material placed on record, this Court finds that, as already discussed while examining the role of A-8, the prosecution has failed to establish even a prima facie case of manipulation of the policy. The clauses incorporated in the policy cannot be traced to any document allegedly supplied by the so-called South Group. The record reflects deliberations at various levels, examination by the competent authorities, and a progressive development of the policy framework, culminating in approval by the Hon'ble LG. No material has been shown to suggest any prior agreement or meeting of minds indicative of a criminal conspiracy in the formulation of the policy.

505. If the principal allegation against the Deputy Chief Minister (A-8) does not withstand scrutiny, the attempt to fasten a peripheral role upon Chief Minister (A-18) cannot independently survive. The allegation against A-18 rests primarily on a solitary line in the statement of PW-225, an accomplice-like witness, stating that A-17 would be contacting him. The said statement is alleged to have been made in the presence of 10 to 12 persons. Those persons were admittedly present; however, they have either not been examined or, if

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examined, have not been cited as witnesses in the charge-sheet. The absence of such independent version raises serious concerns regarding the completeness and fairness of the investigation. Where direct witnesses are available, reliance on a tainted source cannot compensate for their non-production.

506. The prosecution proceeds on the premise that the policy was manipulated pursuant to a criminal design. If that foundation is not established, the subsequent allegations necessarily lose their footing. A prosecution cannot be sustained by isolating a fragment and elevating it into a circumstance of a larger conspiracy without first proving the core allegation.

507. A scrutiny of the record further reveals that no contemporaneous document, file noting, electronic communication, financial transaction or digital evidence has been produced to directly or indirectly connect A-18 with any alleged policy manipulation or illegal gratification. There is no material to show his presence at any conspiratorial meeting or to indicate his knowledge of any unlawful arrangement. The attempt to implicate him rests on inference drawn from uncorroborated accomplice-like statement.

508. It is also noteworthy that PW-20, the prosecution's approver whose seven statements are relied upon and who claims knowledge from the stage of policy formulation to the alleged utilisation of funds, has not attributed any role to A-18. PW-20 has

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assigned roles to several other accused persons. There appears no reason why, if any involvement of A-18 existed within his knowledge, the same would not have been disclosed. His silence in this regard assumes significance and further weakens the case sought to be made against A-18.

509. The mere invocation of the expression *"conspiracy"* does not dispense with the requirement of material indicating agreement and participation. Criminal liability cannot be inferred from the office held or from suspicion. In the absence of admissible material, and where the connection is sought to be established solely through uncorroborated tainted statements, the threshold required even at the stage of charge is not satisfied. Reliance is place upon the judgment of Hon'ble Supreme Court in **Suresh Budharmal Kalani (supra).**

510. The right to life and personal liberty under Article 21 of the Constitution mandates that every prosecution must rest upon a fair, objective and complete investigation. A fair trial is inseparable from a fair investigation. When independent material is available but not placed before the Court, and reliance is placed instead upon selective fragments of inculpatory statements, the constitutional guarantee is put at risk. The liberty and reputation of an individual cannot be imperilled on the basis of conjecture or unsupported inference. Criminal proceedings are intended to adjudicate facts in accordance with law, not to proceed upon speculative allegations.

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(emphasis supplied)

511. If persons are implicated without cogent and legally admissible material, the effect would be to allow the investigating agency, rather than the Court, to determine their fate. Such a course is inconsistent with the rule of law. Serious allegations must be supported by admissible material. In the absence of foundational material connecting A-18 with any criminal design, and in the absence of independent corroboration of the statements of accomplice like witness, relied upon, the attribution of a central conspiratorial role cannot be sustained.

512. The consequences are even more serious where the person concerned holds a constitutional office. Arrest and prosecution in such circumstances have implications beyond the individual. Public confidence in institutions is inevitably affected. If it is later found that such prosecution was unsupported by admissible material, the erosion of public trust is substantial. The power to investigate and prosecute carries with it a corresponding obligation of fairness, restraint and adherence to rule of evidence. Only by strict observance of these principles can both individual liberty and public faith in the justice system be preserved.

513. Resultantly, when the statement of PW-225 is evaluated in its correct legal character, as a self-incriminating, participant-account akin to that of an approver, and tested against the complete

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absence of independent corroboration on the sole material link attributed to A-18, the Court finds that such uncorroborated statement cannot, even at the threshold stage, constitute a legally sustainable basis to proceed against A-18.

Failure of Case Against Public Servants — Nonetheless, Examination of Other Accused Continues

514. The prosecution seeks to portray A-8, the then Deputy Chief Minister, as the principal architect of the DEP-21/22. It is alleged that he constituted the Ravi Dhawan Committee, chaired the GoM, brought about structural changes by privatising the wholesale segment, fixed the wholesale margin at 12%, and structured the policy in a manner intended to recoup alleged upfront payments of about ₹90–100 crores, thereby laying the groundwork for the supposed conspiracy. It is further alleged that illegal gratification was paid to A-2 for facilitating the grant of licence to M/S Indospirit, and that such licence was ultimately granted by A-1. The Chief Minister (A-18) is projected as the central figure who orchestrated the overall design.

515. However, for reasons already recorded, when these allegations are examined in the light of the material placed on record, they are reduced to inferences not supported by admissible material. The links said to form the chain of conspiracy are not borne out from contemporaneous official notings, departmental records, or any independent documentary material. There is no demonstrable nexus

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between the features of the policy and the alleged recoupment theory. The prosecution case, insofar as it seeks to attribute criminal culpability to public servants under the PC Act, 1988 thus remains without foundational material.

516. It must be emphasised that unless there is material indicating demand, acceptance, or conscious abuse of official position for obtaining pecuniary advantage, the essential ingredients of offences under the PC Act cannot be said to exist. In the absence of such material, the very basis for proceeding against public servants under the said enactment stands eroded.

517. Be that as it may, and in order to examine the matter in its entirety, this Court deems it appropriate to proceed further on the assumption, without so holding, that the prosecution case survives scrutiny against the public servants. Proceeding on that hypothesis, it becomes necessary to consider whether the material on record discloses sufficient grounds to frame charges against the private accused persons who are alleged to have acted in concert.

518. The discussion shall now move to the second category of accused persons, examined role-wise for the sake of clarity and coherence. The enquiry shall remain confined to the limited test applicable at the stage of framing of charge, namely whether the material gives rise to grave suspicion based on admissible evidence,

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or whether it rests merely on conjecture insufficient to warrant a criminal trial.

Allegation against A-3

519. The prosecution projects A-3, Vijay Nair, as the central facilitator and operational fulcrum of the alleged criminal conspiracy concerning the formulation and implementation of the DEP-21/22. Though not holding any formal office in the Government of NCT of Delhi, he is alleged to have exercised de facto influence by reason of his proximity to the political executive, particularly Accused Manish Sisodia (A-8) and other senior functionaries, and to have functioned as the principal intermediary between public servants and private liquor businessmen described as the *"South Group"*.

520. It is alleged that A-3 convened, attended and coordinated crucial meetings-inter alia at Gauri Apartments, New Delhi, and at ITC Kohenoor, Hyderabad-where the prosecution claims the contours of the conspiracy were crystallised, including the alleged demand, arrangement and quantification of illegal gratification aggregating approximately Rs. 90-100 crores. According to the prosecution, he negotiated and facilitated advance payments of Rs. 20-30 crores through hawala channels, and thereafter played a coordinating role in the generation, collection and recovery of illicit funds through favoured wholesalers, including M/S Indospirits and M/S BSPL.

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521. The prosecution further alleges that A-3 ensured that key policy features-such as the uniform 12% wholesale margin, the *"one wholesaler per manufacturer"* model, the zoning of retail vends, and the use of credit-note mechanisms-were operationalised in a manner advantageous to the alleged conspirators. He is also attributed a supervisory role in the routing, layering and diversion of the alleged proceeds of crime through commercial, media and intermediary entities, as well as in coordinating the political utilisation of such funds, including for the Goa Assembly Elections, 2022.

522. On this foundation, the prosecution asserts that the conduct attributed to A-3 discloses continuity of involvement, conscious facilitation and requisite mens rea, portraying him as a key non-official architect and executor of the alleged conspiracy underlying the DEP-21/22.

Analysis

(a) Meeting at Gauri Apartments

523. The prosecution seeks to attribute the genesis of the alleged criminal conspiracy relating to the formulation and implementation of the DEP-21/22 to an interaction stated to have taken place in May 2021 at Gauri Apartments, involving Vijay Nair (A-3), Arjun Pandey (A-10), Dinesh Arora (PW-20), Sikander Maan (PW-20), his nephew Virat Maan (PW-1), Abhishek Boinpally (A-4),

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A.R. Pillai (A-5) and Butchi Babu (A-11), and to portray the said interaction as a precursor to the subsequent meeting at ITC Kohinoor, Hyderabad. In support of this assertion, reliance has been placed upon the statement of the approver Dinesh Arora (PW-20), read with the statements of PW-1 and PW-2. The prosecution further attempts to locate the origin of the alleged conspiracy in meeting purportedly held at Flat No. 2, 3/4, Gauri Apartment, Rajesh Pilot Lane, New Delhi, an allegation founded on the statements of PW-41 (Cook), PW-42 (Caretaker) and PW-43 (Sh. Rajiv Singh, Additional Advocate General), which therefore falls for close scrutiny at the threshold.

524. A conjoint reading of the statements of PW-1 Virat Maan, PW-2 Sikander Maan, and the approver Dinesh Arora (PW-20) does not support the prosecution's attempt to characterise the alleged May 2021 interaction as conspiratorial. What runs as a common thread through the statements of the aforesaid witnesses is the assertion that the members of the so-called *"South Group"* were contemplating the acquisition of five to ten retail zones, and that PW-1 and PW-2 could assist them in *setting up the shops and providing staff for running the shops*. In return, it is stated, assistance would be extended to promote their brand *"Royal Green"* at such outlets, and to facilitate the sale of the said brand in the Telangana market. The tenor of these statements unmistakably suggests that the intention attributed to the South Group

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members was to *enter the retail liquor business*, to *secure retail zones*, and to *arrange manpower* if and when such entry materialised.

525. At this stage, it assumes significance to note that PW-20, in his confessional statement recorded under Section 164 of Cr.P.C. prior to the grant of pardon, has nowhere stated that the members of the South Group were inclined to take five to ten retail zones. This assertion emerges only subsequently, in the statement recorded under Section 306(4) of Cr.P.C. after the grant of pardon, wherein PW-20 introduces the version that the South Group was inclined to take five to ten zones. The belated introduction of this detail, after the grant of pardon, when contrasted with the earlier silence, is a circumstance which bears directly on the probative worth of the version now sought to be relied upon.

526. It also bears emphasis that the investigating agency has not disputed the tender process, nor has it alleged any undue favour or irregularity in the allotment of retail zones. The integrity of the tender mechanism and the legitimacy of participation in the retail excise business thus stand undisputed on the prosecution's own showing.

(emphasis supplied)

527. Equally relevant is the admitted position that PW-1 and PW-2 are themselves deeply associated with the liquor business. PW-2 has categorically stated that he is the manufacturer of the brand

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"Royal Green" and has further admitted that he is running nearly 60 retail outlets in the State of Haryana. Despite this admitted commercial positioning, the prosecution does not allege any criminal conspiracy against PW-1 or PW-2. On the contrary, it is apparent from the record that PW-2, being a manufacturer associated with M/S ADS Spirits Private Limited, was seeking to push his own brand by proposing to place his staff and manpower at the retail zones which the alleged *"South Group"* proposed to operate.

528. A careful reading of the statements of PW-1 and PW-2 also reveals that the arrangements spoken of by them, particularly with regard to placement of staff and operational control, were, if anything, contrary to the stated objectives of the DEP-21/22. Significantly, it was PW-20 who arranged the meeting at Gauri Apartment, and the material on record indicates that his proximity with PW-2 was far closer than with the accused persons who are alleged to have been present at the said meeting.

529. At this juncture, a hypothetical reversal of roles exposes the inherent asymmetry in the prosecution's approach. Had the South Group members been examined as witnesses, and PW-1, PW-2 and PW-20 been placed in the dock, and had the accused persons deposed to the facts now disclosed by these PWs, it would have been exceedingly difficult for PW-1, PW-2 and PW-20 to contend that they were *not* acting in concert, or that they were *not* seeking coordinated

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assistance to facilitate their commercial objectives. The conduct attributed to them, discussions on zones, manpower, branding, staffing and operational support, would, in such a scenario, readily lend itself to an inference of concerted action.

530. It also merits notice that these PWs, except PW-2, admittedly attended the subsequent meeting at ITC Kohinoor, Hyderabad, and travelled from Delhi for the said meeting. This continued engagement, movement, and participation at successive meetings underscores that the witnesses themselves were active participants in the commercial discussions, rather than passive bystanders or mere recipients of proposals.

531. The act of seeking manpower or operational assistance for running retail zones, by itself, does not constitute an illegal act, nor is there any material to suggest that such arrangements were sought to be effected through illegal means. Quite paradoxically, the witnesses who speak of facts having a self-incriminating character are projected as prosecution witnesses, while the accused persons are sought to be implicated on the basis of such statements. When the meeting at Gauri Apartment is examined in isolation, the material placed on record, at best, reflects an attempt by certain individuals to explore participation in the Delhi excise business, a commercial activity which, per se, is lawful and permissible under the policy framework.

(emphasis supplied)

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532. It is also of significance that the witnesses have categorically stated that A-11 (Butchi Babu) was enquiring about the financial contours of the Delhi liquor market. The precise extract, as appearing in the record, reads as under: *"Sh Butchi Babu was mainly asking the questions about financial aspects of the business that how is the Delhi market , how we can make profits ."*

533. This aspect assumes considerable importance when juxtaposed with the prosecution's own narrative. On the one hand, the record reflects that in May 2021, A-11 was making elementary enquiries regarding the Delhi market, its profitability, operational contours, and commercial viability. On the other hand, the investigating agency projects that as early as March 2021, a sum of ₹10 crores out of an alleged upfront demand of ₹100 crores had already been delivered by the approver Raghav Magunta (PW-226), purportedly at the instance of A-17, out of a total projected figure of ₹25 crores.

534. If the prosecution version were to be accepted at face value, it would necessarily imply that the payment of *"upfront money"* had already been crystallised, agreed upon, and partially executed by March 2021. Yet, the contemporaneous conduct attributed to A-4, A-5 and A-11, who are themselves projected as conduits of A-17 (K. Kavitha), reveals that they were still grappling with foundational questions: how retail operations would be staffed, how

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shops would be set up, and whether the Delhi market was even commercially viable.

(emphasis supplied)

535. This internal inconsistency strikes at the very root of the prosecution theory. Viewed cumulatively, the conversations and statements relied upon by the prosecution disclose, at best, exploratory commercial discussions surrounding a lawful business activity. They stand in clear contradiction to the theory of a pre-meditated and concluded criminal conspiracy, and the prosecution's own material, therefore, undermines rather than advances the case sought to be projected.

536. The statements of all three witnesses uniformly indicate that the conversations, as described by them, were confined to private commercial engagements among businessmen, relating to exploration of prospective participation in the retail segment under the DEP-21/22. None of these witnesses attributes any role to a Government functionary, nor do they speak of any discussion concerning policy formulation, file movement, official approvals, unlawful gratification or quid pro quo. Of particular relevance is the categorical statement of PW-1 Virat Maan, who has stated that *"Vijay Nair and Ashok Pandey did not speak in that meeting but they were listening."* This assertion clearly indicates that neither Vijay Nair nor Arjun Pandey were active participants in any discussion, much less in any alleged conspiratorial

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deliberation. Mere presence, without attribution of any incriminating act or role, cannot be elevated to an inference of conspiracy.

537. Even if one were to assume, for the sake of argument, that the prosecution case is stretched to its fullest amplitude, there remains no material to indicate that any criminal design or conspiracy was ever discussed, conceived, or agreed upon in the manner alleged. The foundational element of a meeting of minds continues to remain absent from the record.

538. Even otherwise, a significant evidentiary hurdle confronts the prosecution. When viewed in their proper legal perspective, the statements of PW-1 and PW-2 partake the character of accomplice-like statement. Their versions, by their very nature, require independent corroboration on material particulars before they can be relied upon. PW-20, having been tendered pardon and examined as an approver, stands on the same footing so far as the rule of corroboration is concerned. His statement, though admissible, cannot be acted upon without independent assurance.

539. It has already been discussed in detail in the earlier paragraphs that one accomplice cannot corroborate another so as to lend credence to the approver's version. Corroboration, in law, must emanate from an independent and reliable source, and not from a witness who is himself tainted by participation or interested involvement in the alleged transaction. Reliance is placed upon the

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judgments of Hon'ble Supreme Court in **K. Hashim (supra), Somasundaram (supra), Laxmipat Choraria (supra) and A.R. Antulay (supra).**

540. The prosecution seeks to draw support from three other witnesses who could, in theory, furnish independent corroboration. However, upon a careful reading of the statements of PW-41, PW-42 and PW-43, it becomes evident that their statements do not advance the prosecution case in this regard. Their evidence, which shall now be examined below, does not supply the requisite independent corroboration on material particulars so as to strengthen the accomplice-like versions relied upon by the prosecution.

541. The prosecution's alternative narrative, that the genesis of the conspiracy lies in meetings at Gauri Apartment, rests on the statements of PW-41 (the cook posted at the Uttam Galva Steels guest house), PW-42 (the caretaker of the premises), and PW-43 (Shri Rajiv Singh, Additional Advocate General). On a careful and conjoint appreciation of their statements, the Court finds that the entire body of material relating to the stay of certain individuals at the said premises is routine, peripheral, and wholly unconnected with the formulation or implementation of the DEP-21/22. PW-41 and PW-42 merely depose to the fact that accommodation was provided at the premises. PW-41 states that A-3 (Vijay Nair) stayed there for two to three days in March 2020, while PW-42 deposes that one *"known person of Shri Vibhav,"*

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later identified as Shri Durgesh Pathak, MLA, stayed there in May 2021 for over a month. Crucially, neither witness speaks of having seen, heard, or participated in any discussion touching upon excise policy. They do not describe the presence of any excise official, public servant, manufacturer, wholesaler, or stakeholder connected with the policy regime, nor do they refer to any meeting or interaction of relevance to the alleged conspiracy. The statement of PW-43 does not advance the prosecution case any further. He merely states that he arranged accommodation at the request of Shri Vibhav Kumar, PS to the Chief Minister *("I was contacted telephonically…who requested to accommodate Shri Vijay Nair")*, and that he later learnt from the caretaker that *"the person who stayed… was Shri Durgesh Pathak, MLA… and he stayed there for more than a month."* His solitary assertion that Shri Pathak *"was facilitating various meetings including meeting attended by accused Vijay Nair"* is expressly based on what *"was informed to me by the caretaker",* rendering the statement hearsay, devoid of personal knowledge, and incapable in law of sustaining any inference of conspiracy.

542. Significantly, none of the witnesses, PW-41, PW-42 or PW-43, describes any meeting pertaining to the Excise Policy, any interaction with excise officials, any communication with manufacturers or wholesalers, or any conduct suggestive of quid pro quo. There is no evidence, either direct or circumstantial, of any

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policy-related deliberation, decision-making, or unlawful agreement having taken place at the said premises. Viewed at its highest, the material on record establishes no more than that certain private individuals were temporarily accommodated at a corporate guest house on personal request. The evidence does not disclose any nexus, either direct or inferential, between such accommodation and the alleged corruption in the drafting or execution of the DEP-21/22. The prosecution's attempt to treat the alleged meeting or stay at Gauri Apartments as the genesis of a criminal conspiracy is, therefore, unsupported by admissible evidence and rests on conjecture rather than admissible material.

(b) Absence of Coercion by A-3 in PRI's Appointment of Indospirits

543. The allegation that A-3 employed coercion or force to compel Pernod Ricard India (PRI) to appoint M/S Indospirit as its distributor cannot be examined on the basis of generalised assertions or in the abstract. An allegation of this nature necessarily calls for a clear and specific inquiry into the manner in which such coercion is alleged to have been exercised. It must be shown, with some degree of precision, as to how any arm-twisting was undertaken, what position of dominance, administrative, regulatory, or otherwise, was allegedly wielded, and in what manner such position translated into compulsion upon M/S PRI.

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544. In this context, the scrutiny of the charge must rest on the statements of the officials of M/S PRI who were directly associated with, or competent to speak on, the process of distributor selection and whose statements are relied upon by the prosecution. Unless these depositions disclose the existence of a position of dominance, the mode of its exercise, and a discernible nexus between the alleged pressure and the appointment of M/S Indospirit, the allegation cannot travel beyond the realm of conjecture. A contextual and complete reading of the said statements, when tested against the contemporaneous documentary record, is therefore essential to determine whether any element of coercion is made out or whether the appointment of M/S Indospirit was the result of an independent commercial decision taken in the ordinary course of business.

545. At the threshold, PW-17 unequivocally clarifies the status of A-3 by stating that *"he was neither any officer from the Excise Department nor was holding any official post"*, a circumstance which substantially weakens any suggestion of enforceable authority or coercive capacity. The witness further records that when Vijay Nair (A-3) expressed a desire to meet M/S PRI's internal decision-maker, *"we decided not to meet him",* expressly because he held no official position, demonstrating that M/S PRI did not regard him as someone capable of directing or compelling corporate decisions. The substance of Vijay Nair's communications, as deposed by PW-17, also falls short

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of coercion. The Signal message dated 09.08.2021, *"Plan you suggested may be complete no go. Everyone is against it. Zero trust basically"*, is explained by the witness as an expression of disapproval regarding the proposed appointment of M/S BSPL as L-1, and not as any directive to appoint M/S Indospirits. Even during the subsequent meeting in Mumbai on 15.08.2021, PW-17 categorically states that Vijay Nair *"did not suggest the name of any particular party to be appointed as L-1, but asked to appoint the L-1 quickly"*. The absence of any naming or insistence upon M/S Indospirits is a significant omission which directly undermines the prosecution's theory of a pre-ordained or forced selection.

546. Equally telling is the fact that M/S PRI's own conduct did not change in response to Vijay Nair's stated views. PW-17 expressly states that, despite Nair's disagreement, *"M/S Pernod Ricard India Private Limited* decided to go ahead with its deal with *M/S Brindco Sales Private Limited"*. The eventual collapse of the M/S BSPL arrangement is attributed by the witness not to any pressure or intervention by Vijay Nair, but to Brindco's own commercial refusal, as *"on 24.08.2021, Sh. Amandeep Singh Dhall informed that he does not agree to the commercial terms offered",* followed by a confirmatory email dated 23.08.2021, which is D-18. This sequence, as narrated by PW-17, establishes that M/S PRI was prepared to persist with M/S BSPL notwithstanding Nair's views, and that the shift away

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from Brindco was triggered by independent commercial considerations.

547. The allegation of coercion attributed to A-3 is further rendered untenable when examined in the light of the statutory framework governing wholesale distribution under the excise regime. Clause **3.1.1(v)** of the DEP-21/22 expressly provides as follows:

> *"...Any manufacturer that wishes to sell its products in Delhi will have to choose one of licensed L-1 distributor holding wholesale license for supply of Indian and foreign liquor and also holding bonded warehouse licenses in the form of L-31 as an exclusive distributor, for all its brands….".*

548. A plain and literal reading of the aforesaid clause makes it abundantly clear that the policy mandates exclusivity at the wholesale level, permitting a manufacturer to operate through only one L-1 distributor for all its brands. Once a manufacturer has exercised such choice, the policy itself forecloses the possibility of parallel or multiple wholesale arrangements.

549. In this backdrop, once another manufacturer, namely Diageo, had already chosen M/S BSPL as its L-1 distributor, the policy framework left no scope for M/S PRI to appoint M/S BSPL as its distributor as well. M/S PRI was, therefore, required, by operation of the policy itself, to identify and appoint an alternative L-1 distributor. This consequence flows directly from the policy mandate and not from any external pressure or intervention.

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550. Viewed thus, the suggestion attributed to A-3, even if accepted at face value, cannot be characterised as coercive or extraneous. On the contrary, such a suggestion stands wholly aligned with, and is a logical corollary of, the exclusivity requirement embodied in Clause 3.1.1(v) of the applicable excise policy. The decision-making space of PRI was already circumscribed by the statutory policy framework, and the eventual necessity to explore a different distributor arose from policy compliance rather than from any alleged compulsion.

(emphasis supplied)

551. Accordingly, the material on record demonstrates that the non-appointment of M/S BSPL by M/S PRI was dictated by the operative clauses of the DEP-21/22 itself. Any suggestion or opinion expressed by A-3 in this regard merely mirrored the policy position and does not, either in law or on facts, disclose any element of coercion, pressure, or undue influence.

552. When M/S Indospirits was thereafter considered, PW-17 makes it explicit that it was not M/S PRI's first choice. He states that, despite a long association, Sameer Mahendru *"always had a liquidity issue… therefore he was not our first choice"*. M/S Indospirits was taken up only as a *"next best option"* after M/S BSPL declined, and even then, only upon stringent financial safeguards. PW-17 records that M/S PRI insisted that M/S Indospirits *"must provide… a bank*

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guarantee of 100 crores", and when this was delayed, accepted substantial personal sureties running into hundreds of crores. The detailed description of the meeting dated 20.09.2021 at Hotel Taj Mahal, clarified again in the statement dated 10.05.2024, shows that the purpose was *"to show his financial ability"*, and that the investors *"confirmed… that they are backing M/S Indospirits for its wholesale liquor business in Delhi"*. The organisation, booking, and payment of this meeting by M/S PRI itself further reinforce that the decision-making process was internally driven and commercially evaluated.

553. In this evidentiary backdrop, PW-17's statement does not disclose any act of coercion, compulsion, or dictated outcome attributable to A-3. At its highest, the evidence shows that A-3 expressed opposition to M/S BSPL and urged the expeditious appointment of an alternative wholesaler, without naming M/S Indospirits, without possessing any official authority, and without altering M/S PRI's initial commercial course. The eventual appointment of M/S Indospirits, as per the witness, flowed from M/S BSPL withdrawal and from M/S PRI's own assessment of liquidity backing and risk mitigation, not from any pressure exerted by A-3.

554. On a cumulative and contextual reading of the statement of PW-17 (Benoy Babu), working as General Manager, M/S Pernod Ricard India Pvt. Ltd., recorded on 01.09.2022, 02.11.2022 and 10.05.2024, the prosecution's allegation that A-3, coerced or forced

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M/S PRI to appoint M/S Indospirits as its L-1 wholesaler does not find evidentiary support. Consequently, the allegation that A-3 forced PRI to appoint M/S Indospirits as part of a larger conspiracy is not borne out from the statement of PW-17 relied upon the prosecution.

(c) Corporate Guarantees furnished by Pernod Ricard India

555. On a cumulative and contextual appreciation of the statement of PW-17 (Benoy Babu), particularly his detailed statement dated 02.11.2022 read with his statements dated 01.09.2022 and 10.05.2024, the prosecution's allegation that A-3 coerced M/S PRI to extend corporate guarantees to retail entities so as to confer an undue benefit upon Sameer Mahendru (A-7) or the so-called *"South Group"* as part of a larger conspiracy does not find support from the statements on record. At the threshold, PW-17 traces the genesis of the proposal for corporate guarantees not to any political pressure or extra-corporate influence, but to a commercial request initiated by private parties themselves, stating that in the last week of May 2021 *"Sh. Sameer Mahendru (Indospirit), Sh. C. Suri, Sh. Ashok T. Guljarani… Sh. Sanjay Jain and Sh. Ajay Malhotra… approached me for financial assistance."* He clarifies that upon such approach, he consulted his internal superiors, Manoj Rai and Vimal Khanna, and that *"based on their inputs, a business proposal was prepared by all of us and sent on mail,"* thereby placing the entire exercise squarely within M/S PRI's internal commercial decision-making framework.

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556. PW-17 further explains that the structure of any financial assistance was dictated by the constraints of the DEP-21/22 itself, noting that *"we had limited options for extending the financial assistance since Delhi Excise Policy does not allow the manufacturer to participate in retail space."* The evaluation of permissible financial mechanisms thereafter proceeded through formal banking channels, with the bank outlining available options, *"Corporate Guarantee… Standby letter of credit… Term Deposit"*, and the ultimate decision being taken, as PW-17 expressly records, at the higher management level, *"with the approval of Sh. Rajesh Mishra."* He is categorical that the matter was thereafter *"being handled by Sh. Vimal Khanna"* and that he himself *"was not party to these deliberations,"* underscoring that the decision to extend corporate guarantees was a corporate act taken by PRI's senior management after weighing policy compliance, commercial risk and banking advice.

557. Equally significant is what PW-17 does not attribute to A-3. Nowhere in his statement does PW-17 state that Vijay Nair (A-3) suggested, demanded, directed, or even discussed the extension of corporate guarantees. On the contrary, when referring to Vijay Nair (A-3) elsewhere, PW-17 consistently emphasises that Nair *"was neither any officer from Excise Department nor was holding any official post,"* and that M/S PRI consciously declined to treat him as a decision-maker, recording that *"we decided not to meet him"* when he

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sought access to internal decision-makers. The subject-matter of Nair's communications, as narrated by PW-17, remained confined to expressions of opinion on distributor preference and policy rollout timelines; even in that context, PW-17 records that M/S PRI *"decided to go ahead with its deal with M/S Brindco Sales Pvt. Ltd."* despite Nair's stated disagreement, demonstrating that Nair's views were neither binding nor determinative. The subsequent execution of corporate guarantees further negates any theory of targeted or conspiratorial benefit. PW-17 describes the process as one involving multiple, unrelated retail aspirants, not a single favoured entity, and explains that guarantees were extended only after bank scrutiny, board authorisation and formal documentation. The guarantees were not informal or concealed acts, but part of a transparent banking arrangement culminating in loan disbursements for EMD in favour of the Excise Commissioner, Delhi.

558. This position is independently corroborated by the statements of PW-30 (Shri Priyank Kuchhal) and PW-31 (Shri Ashish Misra), both senior officers of HSBC Bank. Their evidence is purely ministerial and confined to production and explanation of certified banking records. Neither witness discloses any fact suggesting that the execution of corporate guarantees, the sanction of loan facilities, or the utilisation and repayment of funds bore any nexus with the formulation, modification or implementation of the DEP-21/22, or

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with the conduct of any public servant. PW-30 categorically states that the credit facilities were sanctioned *"for funding of EMD for bidding with Excise Department, GNCTD,"* and PW-31 confirms that the funds were utilised through demand drafts issued in favour of the Excise Commissioner, ordinary commercial banking transactions undertaken to meet statutory tender requirements. Neither witness refers to any communication, direction or involvement of A-3 or any public authority. Significantly, no official of M/S PRI has been arraigned as an accused, and none of the company's officers examined has alleged any pressure, coercion or inducement by A-3 or by any public functionary. In this evidentiary backdrop, the material on record establishes that the corporate guarantees were the outcome of commercial requests, internal corporate evaluation, policy-driven constraints, banking advice and senior-management approval, and not the product of any coercion, inducement or conspiratorial design. At its highest, the evidence discloses an internal corporate decision taken in the ordinary course of business to facilitate participation in the retail tender process; it does not disclose any act by A-3 compelling M/S PRI to extend such guarantees, nor any material suggesting that the guarantees were a vehicle to unlawfully benefit Sameer Mahendru (A-7) or any alleged *"South Group"* participant as part of a larger conspiracy.

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(d) Allegation of Demand of Bribe by A-3 for Incorporation of Favourable Clauses in DEP-21/22

559. The allegation levelled against A-3, is that, during interactions with industry stakeholders, he demanded illegal gratification for the inclusion of favourable clauses in the DEP-21/22. A careful, contextual and holistic scrutiny of the evidence on record, however, renders this allegation wholly unsustainable. A plain reading of the statement of PW-104, Vinod Giri, Director General of the Confederation of Indian Alcoholic Beverage Companies (hereinafter referred to as "*CIABC")* establishes that his evidence is strictly confined to his role as an industry representative participating in an open, structured and consultative policy-making process. His statement does not disclose, even remotely, any circumstance suggestive of corruption, quid pro quo or undue influence in the formulation or implementation of the DEP-21/22. On the contrary, PW-104 categorically affirms that CIABC addressed multiple written representations to the Excise Department, the Lieutenant Governor, the Chief Minister and the Deputy Chief Minister, raising policy-level concerns regarding wholesale margins, cost reimbursement, parity between domestic and imported products, zoning structure, cartelisation risks and ease of doing business. These representations were routed through formal institutional channels, duly documented and placed in the public domain, and were plainly in the nature of

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stakeholder feedback rather than any covert or extra-institutional intervention.

560. Significantly, PW-104's evidence brings out that CIABC consistently cautioned the Government against the risk of monopolies and cartelisation arising from the proposed zoning structure, particularly where a single entity could be allotted a large cluster of vends within one zone. His statement reflects that CIABC's engagement was directed towards seeking safeguards against monopolistic practices, over-charging, brand pushing and coercive conduct vis-à-vis suppliers, and towards urging corrective measures wherever necessary. These concerns were reiterated even after the GoM' recommendations were placed in the public domain, thereby negating any suggestion that the industry was seeking to preserve a *"status quo"* or to secure policy concessions through improper means.

561. As regards the meeting with A-3 in the first week of April 2021 at the Oberoi Hotel, Gurugram, PW-104's statement is clear and unequivocal. He states that the meeting was arranged through Amandeep Singh Dhall (A-9) and that A-3 introduced himself as being associated with the Aam Aadmi Party and as advising the Delhi Government on excise policy matters. The discussion, as narrated, remained confined to policy concerns already articulated by CIABC in its written representations, particularly the apprehension that large

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retail zones could facilitate cartelisation and monopolistic behaviour. Crucially, PW-104 does not attribute to A-3 any demand for money, gratification, donation or benefit of any nature, nor does he suggest that any such demand was even obliquely made. On the contrary, PW-104 records that while A-3 explained the policy rationale for larger zones, namely, ensuring the financial capacity and stability of bidders, PW-104 maintained a differing viewpoint and reiterated the need for adequate safeguards against monopolisation. Any assurance attributed to A-3 was limited to taking measures to prevent cartelisation, and any request made by him was confined to seeking industry support for the proposed policy framework. There is a complete absence of any allegation that such support was sought or offered in exchange for money, or that any *"status quo"* was to be maintained through financial consideration.

562. Equally material is PW-104's categorical statement that, following the said meeting, neither A-3 nor any person acting on his behalf contacted him again. He further asserts, without ambiguity, that CIABC did not make any donation or payment to the Aam Aadmi Party or to any individual for securing favourable provisions in the Delhi Excise Policy. This aspect of his statement directly contradicts and undermines the prosecution narrative sought to be constructed on the basis of the alleged handwritten notepad attributed to I.P. Suresh Menon (PW-101) and put to PW-103, suggesting that CIABC paid

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money to maintain a *"status quo"*. No such assertion finds any support in the statement of PW-104, who was the principal functionary of CIABC and the person directly involved in all policy-related interactions.

563. When PW-104's statement is read alongside that of PW-101, Secretary General of the International Spirits and Wines Association of India, and PW-110, the broader policy context becomes unmistakable. The record demonstrates that the pre-existing excise regimes, though revenue-generating, were afflicted by structural loopholes and systemic inefficiencies, shortcomings expressly identified in the Expert Committee Report chaired by Shri Ravi Dhawan and echoed in the recommendations of the GoM. These deficiencies have not been seriously disputed even by the prosecution, whose objections remain confined to selected clauses alleged to facilitate cartelisation or monopoly. Beyond this limited challenge, the necessity for reform of the earlier framework stands largely uncontroverted. The evidence further reveals that revenue accretion under the earlier policies had reached a stage of stagnation, with increases being driven largely by incremental duty hikes, intensified enforcement and periodic price adjustments, rather than by organic growth or structural efficiency in the alcobev sector. As reflected in PW-101's statement, the policy framework had exhausted its capacity for further meaningful growth in the absence of comprehensive re-

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design. This stagnation, coupled with policy liberalisation in neighbouring States and the resultant cross-border diversion of consumer demand, rendered maintenance of the status quo neither economically viable nor administratively sustainable. Within this setting, the statements establish that any genuine reform necessarily had to address the architecture of the supply chain, particularly at the wholesale and retail levels.

564. PW-101's evidence indicates that while manufacturers broadly supported retail privatisation to address consumer-facing inefficiencies, superficial or piecemeal interventions would not have sufficed. Absent restructuring at the wholesale level, reforms confined to retail alone could not have achieved the stated objectives of market efficiency, consumer retention or revenue optimisation. The restructuring of the wholesaler, retailer framework thus emerges as an intrinsic component of systemic correction, not as a targeted favour to any individual or entity. It is also relevant that several prosecution witnesses are themselves stakeholders within the alcobev industry, and their statements naturally reflect commercial perspectives. Yet, when read cumulatively, these statements converge on a consistent theme: that the DEP-21/22 was shaped by market realities and structural policy considerations, and not by any corrupt design or improper inducement. Finally, when PW-101's statement is assessed together with the categorical evidence of PW-91, the alleged role attributed to

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A-3 is further diluted. PW-91 unequivocally places A-3 as a party volunteer, holding no formal post, statutory authority or role in governmental decision-making or policy formulation. The record discloses no material from which it could be inferred that he exercised any determinative, advisory or influential role in the formulation or implementation of the DEP-21/22.

565. Moreover, PW-101 has, in his statement, categorically stated that the recommendations of the Ravi Dhawan Committee were, in principle, acceptable to ISWAI. He has further deposed that, apart from the recommendations contained in the said report, ISWAI had also forwarded certain additional suggestions which do not find mention in the Ravi Dhawan Report. One such suggestion, as specifically highlighted by PW-101, was that there should be no price comparison with other States and that manufacturers ought to be permitted to fix the Maximum Retail Price (MRP) of their products.

566. The very nature of the aforesaid suggestion unmistakably demonstrates that ISWAI, representing the interests of manufacturers, was seeking policy outcomes beneficial to its constituents under the proposed excise regime. PW-101 has further stated that neither the additional suggestions made by ISWAI nor the recommendations of the Ravi Dhawan Committee were ultimately accepted. It is well settled that the commercial interests of

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manufacturers cannot, either in law or in principle, be equated with the interests of the Government or those of the consumer.

567. The statement of PW-101 further reveals that the earlier excise policy was, admittedly, favourable to manufacturers, which explains their consistent effort to maintain the status quo, as it placed them in a dominant and advantageous position enabling effective control over the distribution and sale of liquor. Their evident dissatisfaction with the DEP-21/22 clearly suggests that their position stood diluted by the introduction of private wholesalers, a structural reform which was not acceptable to them.

568. It is significant that the investigating agency has, from the very inception of the case, maintained that A-8, A-3 and A-18 were in favour of the DEP-21/22, particularly the introduction of private wholesalers and retailers. Viewed in this backdrop, the reliance placed by the prosecution on the statement of PW-101 materially undermines the very hypothesis sought to be advanced by the investigating agency, namely, that the aforesaid accused persons were opposed to the recommendations of the Ravi Dhawan Report and sought to introduce policy changes to favour the so-called *"South Group"*.

569. PW-101 has further stated that A-3 expressed that ISWAI may also project favourable media coverage on visual media (television), after PW-101 conveyed that ISWAI was supporting the Ravi Dhawan Report in print media. In his words: ***"I also said that***

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ISWAI could only support the recommendation of the Ravi Dhawan Committee through favourable media stories, which we had already been doing in print media. On this, Shri Vijay Nair said that he wanted favourable media stories on visual media too." This statement, read in its proper context, does not disclose any demand for illegal gratification, but merely reflects a request for public articulation and media support.

570. If A-3 was, as stated by PW-101, supporting the Ravi Dhawan Report, it necessarily follows that he was acting contrary to the alleged conspiracy, since the recommendations of the said report were not in favour of private wholesalers, which, according to the prosecution itself, constitutes the foundational premise for the alleged payment of *"upfront money"*.

(emphasis supplied)

571. This aspect assumes further significance when read alongside PW-101's own statement that ISWAI was, in fact, desirous of a Government-controlled wholesaler. The prosecution case, from its inception, proceeds on the assertion that the collection of *"upfront money"* was premised upon, and incentivised by, the privatisation of the wholesale segment. The admitted preference of ISWAI for a Government wholesaler stands in direct contradiction to this premise. Consequently, the prosecution's attempt to introduce an indirect

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demand in the form of *"some offer"* rests on fundamentally flawed assumptions and collapses under its own weight.

(emphasis supplied)

572. Thus, even on a prima facie evaluation, acceptance of the prosecution's interpretation of the expression *"some offer"* would introduce an internal inconsistency in the prosecution narrative, thereby eroding the very foundation concerning the alleged motive, object and beneficiaries of the purported conspiracy. The use of the expression *"offer"*, in the context in which it appears, can only be read as relating to media support and public articulation, and not to any under-hand payment; otherwise, the prosecution case would stand vitiated at its very foundation and lose all legal significance.

573. Viewed in its entirety, the evidence of PW-104, read conjointly with PW-101 and PW-91, affirmatively establishes that industry engagement with the policy process occurred through transparent, documented representations and limited stakeholder interaction, and that even in the solitary meeting with A-3 there was neither a demand nor an offer of any illegal gratification. The allegation that A-3 demanded a bribe for incorporation of favourable clauses is thus not merely unsubstantiated, but stands squarely contradicted by the prosecution's own evidence, warranting its complete rejection at this stage.

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Outcome of Evaluation

574. The prosecution attributes a central and pivotal role to A-3. He is portrayed as the representative or conduit of A-8, allegedly present at various meetings with other accused persons and, by virtue of such presence, in a position to influence proceedings or exert pressure. According to the prosecution, he figures at every stage of the alleged conspiracy, whether in the formulation of the policy, its implementation, coordination concerning the alleged upfront amount, the purported recoupment thereof, or the indirect coordination of funds said to have been channelled to Goa for electoral utilisation.

575. On the prosecution's own case, his role is described as both direct and indirect. It is termed direct in the sense that he is stated to have attended meetings and coordinated between parties. At the same time, it is indirect because he is not alleged to have personally paid any bribe to A-2, nor to have directly received any upfront amount. It is not alleged that he derived any identifiable pecuniary benefit. His company is not shown to have held any wholesale or retail licence under the impugned policy. There is no material to indicate that he was a beneficiary of the policy framework in any tangible manner.

576. In these circumstances, it was incumbent upon the prosecution to place prima facie foundational facts demonstrating how and in what manner A-3 occupied a central position in the alleged conspiracy. Mere presence at meetings, even if assumed, does not by

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itself establish participation in a criminal design unless supported by material reflecting agreement, intention, or overt acts in furtherance thereof.

577. In cases of conspiracy, the prosecution may rely upon circumstantial evidence and connecting links which, taken cumulatively, may indicate a meeting of minds. A certain latitude is therefore available at the stage of charge. However, that latitude cannot extend to replacing material with conjecture. Where the surrounding circumstances clearly reflect coordinated action towards an unlawful object, the prosecution's task is simplified. In the present case, however, the foundational premises themselves remain unsupported by admissible material.

578. There is no admissible material to show that the formulation of the policy was the result of a conspiracy. There is no admissible material establishing payment of any bribe. There is no material to indicate that wholesale licences were granted in violation of the policy framework. In the absence of these cumulative elements, the role attributed to A-3 remains unsupported by objective evidence and rests on inference.

579. More significantly, the attribution of role to A-3 rests substantially on the statement of the approver. It is settled law that a charge cannot be founded solely on the uncorroborated statement of an approver. At the very least, there must be prima facie corroboration

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in material particulars connecting the accused with the alleged offence. In the absence of such corroborative material, the prosecution case, insofar as it concerns A-3, does not meet the threshold required for framing of charge.

Allegations against A-7

580. The prosecution alleges that A-7, Sameer Mahendru (M/S Indospirits), acted as a private beneficiary and facilitator within the larger conspiracy relating to the formulation and implementation of the DEP-21/22. It is alleged that, pursuant to pre-arranged understandings with other private accused and public servants, A-7 was positioned to secure undue commercial advantage through the grant of L-1 wholesale licence in favour of M/S Indospirits. According to the prosecution, M/S Indospirits was enabled to emerge as a favoured wholesaler for certain manufacturers, particularly PRI, allegedly through manipulated processing of licence applications, suppression of adverse material, and expedited approvals. It is further alleged that A-7 was aware of, and a willing participant in, the broader conspiracy involving policy clauses such as wholesaler margins and exclusive distribution arrangements, and that the benefits accruing to Indospirits were not the result of ordinary commercial selection but flowed from a concerted design among the conspirators. The prosecution thus projects A-7 as a key private link through whom the

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alleged policy manipulation translated into concrete commercial gain.

Analysis

(I) Alleged Wholesaler–Retail Cartel, Funding of EMD, and the Mahandru/Indospirit Control Theory

581. The prosecution alleges that the so-called Indospirit group, purportedly headed by A-7, sought to exercise impermissible control over retail zones by funding EMDs, holding ownership interests, and thereby creating a wholesaler, retail cartel in violation of the object and scheme of the DEP-21/22. This allegation is sought to be built primarily around M/S KGRL, M/S Bubbly Beverages Pvt. Ltd., and M/S Indospirit Retail Pvt. Ltd., by attributing to them a common thread of Mahandru/Indospirit control.

Evidentiary Assessment

582. The prosuection has relied on the statements of PW-27, Shri Arun Kumar Singh (Assistant Registrar of Companies), PW-28, Smt. Vimal Khanna (General Manager, Strategic Planning, Pernod Ricard India Pvt. Ltd.), and the certified banking records proved through PW-34, Ms. Mohini Rane (Deputy Branch Manager, ICICI Bank), to establish that the three entities formed part of, or were controlled by, the alleged Indospirit/Mahandru group in relation to the DEP-21/22.

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Alleged that M/S KGRL was controlled by A-7

(i) The funding for EMD and application fee

583. The NEP-20/21 was framed with the clear objective of dismantling monopolistic structures, preventing cartelisation, and introducing a competitive and transparent market regime. To give effect to this objective, the policy itself incorporated specific safeguards, including the concept of *"related entities"*, as expressly defined in the relevant clause. The policy thus consciously set out the precise circumstances in which common ownership or control would attract disqualification, while equally demarcating what conduct would remain permissible.

584. The prosecution seeks to build an allegation on the footing that the EMD and application fee for retail zone bidding by M/S KGRL were funded through amounts transferred from M/S Indospirit Marketing Pvt. Ltd., whereafter the EMD and application fee were prepared from the account of the bidding entity. This allegation does not withstand scrutiny on a plain reading of the policy. There is no clause in the DEP-21/22 which mandates that the EMD must be sourced exclusively from the bidder's own independent funds, nor is there any prohibition against financial assistance or fund transfers from another entity for the purpose of depositing EMD or application fee, provided the bidder satisfies the eligibility conditions and does not violate the expressly defined *"related entity"* restrictions.

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This position stands reflected in the contemporaneous departmental record, including the noting of the Accounts Branch {D-147 (94/N)}, and is corroborated by the statement of PW-270, Shri Pankaj Bhatnagar, then Assistant Commissioner, who clarified that the policy did not impose any source-based restriction on the EMD.

585. The central issue, therefore, is whether an act which is not prohibited by the policy, and which conforms to its express conditions, can nonetheless be treated as culpable merely by invoking the object of the policy. Such an approach is legally untenable. Penal consequences cannot be imposed on the basis of assumptions as to what the policy ought to have provided. Criminal liability must rest on the breach of a clearly defined prohibition, not on an inferred or postulated restriction.

586. What the prosecution's case effectively seeks to do is to read into the policy a condition which does not exist, and then to treat compliance with the actual text of the policy as suspicious. This exercise is impermissible. The regulatory framework derives its authority and certainty from its written terms. If the rule-making authority considered it necessary to restrict the source of EMD, it was open to it to do so by express provision. In the absence of such a stipulation, an entity acting within the framework of the policy cannot be faulted for taking advantage of what the policy itself permits.

(emphasis supplied)

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587. It is a settled principle that lawful conduct does not become criminal merely because it results in a commercial benefit or because, in hindsight, a different regulatory design might have been preferable. Acting within the four corners of the governing rules does not amount to an illegal act, nor does it satisfy the ingredients of conspiracy, which require an agreement to commit an offence or to achieve a lawful object by unlawful means.

588. In these circumstances, the prosecution's attempt to characterise the funding of the EMD and application fee through inter-entity transfers as evidence of indirect control, cartelisation, or conspiracy is devoid of legal foundation. In the absence of any violation of the express provisions of the DEP-21/22, the allegation rests on conjecture rather than law and is liable to be rejected at the threshold.

(ii) Geetika Mahendru was the director of Geetech Dynamic Systems Pvt. Ltd. which was the holding company of M/S KGRL

589. At the threshold, the prosecution seeks to draw an inference of control and cartelisation on the premise that the wife of A-7 was a director of M/S Geetech Dynamic Systems Pvt. Ltd. till 30.03.2021 and that the said company subsequently became the holding company of M/S KGRL. This allegation, when tested against the statutory record and the statement of PW-27, does not withstand scrutiny.

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590. The statement of PW-27, Sh. Arun Kumar Singh, Assistant Registrar of Companies, is of central relevance. From his deposition, the corporate existence and structure of M/S KGRL stand clearly established on the basis of ROC records. PW-27 states that *"the company namely M/S Khao Gali Restaurants Pvt. Ltd. was incorporated on 08.08.1994"* and was registered at *"B-115, 2nd Floor, DDA Shed, Okhla Phase-I, New Delhi."* At incorporation, *"500 shares were subscribed by Shri Shyam Kapur s/o Kundanlal Kapur, 500 by Geetam Kapur w/o Shri Shyam Kapur and 500 shares were with Tarun Kalra,"* and *"all these 03 shareholders were also the Directors of the company at the time of incorporation and continued as such till 30.03.2021 when Ms. Geetam Kapur ceased to be the Director of the company."*

591. PW-27 further explains the later shareholding position by recording that *"as per annual return for the FY 2020-21, the total shares towards subscribed capital are 10,000,"* out of which *"99% of share holding (9,900 shares) of Khao Gali Restaurants Pvt. Ltd. is owned by M/S Geetech Dynamic Systems Pvt. Ltd., while remaining 1% (100 shares) is being held by Shri Shyam Kundan Lal Kapur."* He clarifies that this restructuring occurred because *"during the year 2020-21, 4,500 shares held by Ms. Geetam Kapur, 4,400 shares held by Shri Shyam Kundan Lal Kapur and 1,000 shares held by Shri Tarun Kalra were transferred to M/S Geetech Dynamic Systems Pvt. Ltd."*

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592. The financial position of M/S KGRL is also placed on record by PW-27. He states that *"as per Financial Statement for the FY-2020-2021, the company incurred a loss of Rs. 19,867/-,"* and that only *"Rs. 4,600/- was taken as loan from M/S Indospirit Distribution Ltd."* For the earlier year, he records that *"Rs. 10,440/- & Rs. 2,400/- were taken as loan from M/S Indospirit Distribution Ltd. & M/S Indospirit Marketing Private Limited,"* with similar losses and marginal borrowings reflected for FY-2019-20 and FY-2018-19. These figures, by their very magnitude, demonstrate that the company was a loss-making entity and that the borrowings were nominal and insignificant.

593. PW-27 also establishes the corporate profile of M/S Geetech Dynamic Systems Pvt. Ltd., stating that it *"was incorporated on 06.02.1998 at the address D-98, Anand Niketan, 3rd Floor, Delhi-110020."* At incorporation, *"500 shares were subscribed by Shri Shyam Kapur s/o Kundanlal Kapur and 500 by Geetam Kapur w/o Shri Shyam Kapur,"* and *"both these shareholders were also the Directors of the company at the time of incorporation."* He traces the subsequent changes in directorship and records that *"as per annual return for the FY 2020-21, the total shares towards subscribed capital are 10,000, out of which 90% of share holding (9,000 shares) of the company are held by Shri Shyam Kundan Lal Kapur while the remaining 1,000 shares are with Tushar Kapur,"* further noting that

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"during the year 2020-21, 2,000 shares held by Ms. Geetam Kapur were transferred to Shri Shyam Kundan Lal Kapur." PW-27 also notes that *"Rs. 99,000/- was invested in M/S Khao Gali Restaurants Private Limited,"* thereby explaining the shareholding link between the two companies.

594. What clearly emerges from this material is that M/S KGRL became a subsidiary of M/S Geetech Dynamic Systems Pvt. Ltd. on the basis of share transfers duly reflected in ROC records. Equally significant is what does not emerge: PW-27 does not state anywhere that A-7 or his wife ever held any shareholding, directorship, or managerial position in M/S KGRL. The only reference to Indospirit entities is confined to nominal unsecured loans of Rs. 4,600/-, Rs. 10,440/- and Rs. 2,400/-. Such trivial amounts, on their face, cannot establish ownership, control, dominance, or any group integration, and are wholly insufficient to support an allegation of cartelisation or conspiratorial control.

595. In law, a director of a holding company who holds no shares therein, and who has no shareholding or directorial position in the subsidiary, cannot be attributed control over the subsidiary merely by virtue of such office. Control flows from legally enforceable rights in shareholding or from statutory or contractual powers recognised by law, not from a managerial designation in another juristic entity. The subsidiary remains a distinct corporate person; its voting rights,

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management and affairs vest exclusively in its shareholders and duly appointed directors. In the absence of any proprietary interest, contractual authority or statutory mandate linking A-7 or his wife to M/S KGRL, the prosecution's attempt to infer control, ownership or cartelisation is founded on conjecture rather than evidence. At the stage of charge, such an allegation, unsupported by any legally cognisable indicia of control, stands dismantled at the threshold.

(iii) Bubbly Beverages Pvt. Ltd. and the Allegation of Cross-Funding / Control by A-7 to M/S Magunta Agro Farms Pvt. Ltd.

596. What emerges from the record is that M/S Bubbly Beverages Pvt. Ltd. transferred an amount of ₹25 crores to M/S Magunta Agro Farms Pvt. Ltd., which the prosecution seeks to characterise as *"cross-funding"* of EMD for obtaining an L-7Z licence. It is, however, an admitted position that approver Raghav Magunta Reddy (PW-225) was not a named partner in M/S Indospirit, the L-1 wholesaler licence holder. The further attempt to attribute this transaction to A-7 on the premise that he was controlling M/S Bubbly Beverages Pvt. Ltd., and that such alleged control was exercised to influence or dominate retail zoning through EMD funding, finds no support from the record.

597. From the statement of PW-27, Sh. Arun Kumar Singh, Assistant Registrar of Companies, and the statutory ROC records proved through him, the corporate position of both M/S Indospirit

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Retail Pvt. Ltd. and M/S Bubbly Beverages Pvt. Ltd. stands clearly established. PW-27 records that M/S Indospirit Retail Pvt. Ltd. was incorporated on 21.11.2012 with a subscribed capital of 10,000 equity shares, initially held by M/S Indospirit Distribution Ltd. through Sameer Mahandru (9,000 shares) and Sudershan Lal Mahandru (1,000 shares), both of whom were directors. PW-27 further records that by 31.03.2021, the entire shareholding stood transferred to Nitin Kapoor (9,000 shares) and Soni Singh (1,000 shares), and that Sameer Mahandru resigned from the directorship on 30.03.2021 and Sudershan Lal Mahandru on 10.07.2021. Thus, with effect from 31.03.2021, M/S Indospirit Retail Pvt. Ltd. stood wholly owned and controlled by Nitin Kapoor and Soni Singh, with no subsisting shareholding or managerial role of A-7.

598. As regards M/S Bubbly Beverages Pvt. Ltd., PW-27's statement and the ROC filings show that Ms. Geetika Mahandru never held any position of director, shareholder, or manager at any stage. PW-27 attributes to her no shareholding or managerial role whatsoever. The involvement of A-7 in Bubbly Beverages was confined to a minority shareholding of 10% up to 31.03.2020. PW-27 further records that in March 2021, the shares held by A-7 were entirely transferred, resulting in him holding zero shares with effect from 31.03.2021. Thereafter, 99% of the shareholding of Bubbly Beverages stood with M/S Indospirit Retail Pvt. Ltd. and 1% with

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Nitin Kapoor, followed by the resignation of A-7 from the directorship on 20.07.2021. The board thereafter comprised Nitin Kapoor and Soni Singh. Thus, during and after the relevant period, neither A-7 nor his wife exercised any ownership or managerial control over Bubbly Beverages.

599. In this background, the prosecution's theory that A-7 controlled M/S Bubbly Beverages Pvt. Ltd. and, through it, sought to control retail zoning by alleged EMD cross-funding is not borne out from the statutory record. Even otherwise, as already discussed, the Excise Policy does not prohibit funding of EMD by one entity for another. Mere funding or financial assistance, in the absence of any change in shareholding or directorship, does not result in transfer of control. Inter-corporate loans and monetary assistance are well-recognised commercial arrangements in corporate law and, by themselves, cannot be treated as devices to create cartelisation or confer control.

(emphasis supplied)

600. On a cumulative assessment, the record does not disclose any material to show that the ₹25-crore transaction resulted in, or was intended to result in, ownership, control, or dominance of retail zones by A-7. The allegation rests on assumption rather than admissible material and stands contradicted by the ROC material and the statement of PW-27.

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(iv) Allegation of Cross-Funding of EMD by Zenab Pvt. Ltd. (Magunta Group) to M/S KGRL

601. The prosecution has alleged that a sum of ₹25 crores was transferred by M/S Zenab Pvt. Ltd., a company stated to be associated with the Magunta group, to M/S KGRL, and that such transfer constituted *"cross-funding"* intended to create cartelisation in the excise retail tender process. On a careful scrutiny of the material placed on record, this allegation does not withstand examination.

602. The prosecution itself relies heavily upon the statement of the approver, Raghav Magunta Reddy (PW-226). A significant aspect of his deposition, however, runs contrary to the prosecution narrative. PW-226 categorically states that the amount of ₹25 crores transferred to M/S KGRL was subsequently returned. This admission is of decisive relevance. The return of the entire amount clearly establishes that the transaction was not in the nature of an investment, capital contribution, or consideration for any assured benefit, but was, at best, a temporary financial accommodation or friendly loan.

603. The very fact of repayment negates the essential premise of cartelisation. Cartelisation, by its very nature, presupposes a continuing alignment of commercial interests, mutual assurance of benefit, or a sustained financial stake in the business operations of another entity. A transaction which is fully reversed, without any evidence of retained benefit, ownership interest, or managerial

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influence, cannot be characterised as a cartel-forming device. There is no material to suggest that the transfer of funds resulted in any change in shareholding, directorship, or control of M/S KGRL, nor is there any evidence that Zenab Pvt. Ltd. acquired any proprietary or beneficial interest in the said company.

604. Further, there is no provision in the Excise Policy which prohibits an entity from receiving financial assistance or loans for arranging the EMD, so long as the eligibility conditions prescribed under the policy are otherwise fulfilled. Mere funding of EMD, in the absence of any statutory bar, does not ipso facto amount to cartelisation. To elevate such a transaction to a criminal conspiracy, there must be material showing that the funding translated into control, dominance, or coordinated conduct in restraint of competition. No such material is forthcoming on the record.

605. In the present case, the prosecution's own approver demolishes the allegation by admitting that the ₹25-crore amount was returned. This admission is wholly inconsistent with the theory of cartelisation or cross-holding of interests. A repaid loan or friendly financial assistance, without anything more, cannot be treated as evidence of a collusive arrangement or an attempt to manipulate the tender process, which even otherwise has not been disputed.

606. Accordingly, on the basis of the statement of approver PW-226 read in the absence of any corroborative material indicating

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continuing benefit, control, or concerted action, this Court finds that the allegation of cross-funding of EMD by Zenab Pvt. Ltd. to M/S KGRL as a device for cartelisation is unsupported by the evidence and rests on conjecture rather than legally sustainable material.

(v) Legal Position

607. The DEP-21/22 contains in-built safeguards to prevent vertical integration, cartelisation and conflict of interest. A central safeguard is the definition of *"related entities" / "sister concerns"*, which is consciously structured around ownership, control and management, and not the mere source of funds. Under the policy, entities are treated as related only where there exists common proprietorship, partnership or directorship, or where majority ownership (51% or more) vests in the same person or group of persons across such entities.

608. The touchstone is effective control and beneficial ownership. In this statutory framework, mere funding of EMD for bidding in retail zones by a wholesaler or manufacturer does not, by itself, constitute a violation of the policy. Funding, simpliciter, does not ipso facto result in acquisition of ownership or transfer of control. The statutory disability is attracted only where such funding culminates in the wholesaler or manufacturer acquiring 51% or more ownership or decisive managerial control in the retail entity. Conversely, where financial assistance, whether by way of loan,

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advance, guarantee or facilitation of EMD, is extended without any corresponding shift in shareholding, partnership rights or directorial control, the essential ingredients of disqualification remain absent. The policy does not prohibit commercial funding arrangements per se; it proscribes concentration of ownership and control beyond the prescribed threshold.

609. Applying this settled legal position, the allegation sought to be raised in relation to M/S KGRL does not give rise to any statutory disqualification vis-à-vis M/S Indospirit. Quite apart from the legal principle that funding alone is insufficient, the factual foundation itself is missing. There is no material establishing that the EMD or bid amount of M/S KGRL was funded by M/S Indospirit, nor any evidence of common ownership, management or majority control between the two. Across all three entities, the evidence of PW-27 remains confined to statutory ROC filings; PW-28 speaks only to internal corporate compliance and risk-assessment processes of a private manufacturer; and PW-34's banking evidence does not establish ownership, control or policy-field activity. In the absence of any legally cognisable indicia of ownership or control, and in the face of independent due-diligence findings categorising the entities as Low Risk, the prosecution's attempt to subsume M/S KGRL, M/S Bubbly Beverages Pvt. Ltd. and M/S Indospirit Retail Pvt. Ltd. within an alleged *"Indospirit network"* is unsupported by the record.

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610. In sum, the DEP-21/22 draws a clear and deliberate distinction between prohibited ownership/control structures and permissible commercial financing arrangements. Unless funding results in acquisition of majority ownership or effective control, it neither violates the policy nor disentitles a wholesaler from consideration for, or grant of, an L-1 licence. The material on record, taken at its highest, fails to disclose any such prohibited nexus or cartelisation.

(II) Alleged Generation and Transfer of Proceeds of Crime by Active Participation of A-7 through Transfer of 61% of Profits of M/S Indospirits to A-5

611. At this stage, the Court finds it necessary to distinctly separate the allegation as projected by the prosecution from the governing legal principles applicable to partnerships and joint ventures, and to test the allegation against the contemporaneous documentary record placed on file. The prosecution proceeds on the premise that M/S Indospirits functioned as a joint venture in which M/S Indospirit Distribution Pvt. Ltd. held 35%, Prem Rahul Manduri (PW-270) held 32.5%, and A.R. Pillai (A-5) held 32.25%, and that approximately 61% of the profits were ultimately transferred to A-5. This circumstance is sought to be portrayed as suspicious and indicative of the generation of *"proceeds of crime"*.

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612. At the very threshold, however, this premise stands contradicted by contemporaneous documentary material, namely Document D-9, being the letter dated 07.11.2022, which is brought on record by PW-26. Document D-9 records, in clear and unequivocal terms, that from the inception of the partnership there existed a mutual understanding and arrangement among the three partners, Indospirit Distribution Pvt. Ltd., Prem Rahul Manduri (PW-270) and A-5, that PW-270, who was the associate/friend/partner of A-5; that the act and management of the affairs of the firm on behalf of Prem Rahul Manduri will be done by A-5; and that it was verbally agreed between the partners that the share of profit of the firm attributable to both A-5 and PW-270 would be disbursed either to A-5 or as per his instructions. The document further records that Prem Rahul Manduri had no objection whatsoever to this arrangement and that, in pursuance thereof, a total amount of Rs. 29,29,99,124/-, representing the combined profit share of A-5 and PW-270, was transferred by the firm either to A-5 or as per his directions. This position has been affirmed in the statement of PW-26, dated 08.11.2022, which is relied by the Investigating Agency.

613. It is expressly clarified by PW-26 that, owing to this prior mutual understanding and express consent of PW-270, no amount was paid directly to him towards his share of profits. Of considerable significance is the fact that there is nothing on record to

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show that this arrangement was ever objected to, disputed, or considered unacceptable by any of the partners, and in particular by Prem Rahul Manduri (PW-270), whose profit share is alleged to have been routed in the aforesaid manner. There is no complaint, protest, civil claim, correspondence, or contemporaneous material suggesting dissent, coercion, or absence of consent on his part. On the contrary, the documentary record affirmatively reflects acceptance and acquiescence, consistent with the mutual understanding recorded in D-9. Once this contemporaneous explanation, emanating from the firm itself and furnished to the investigating agency, is taken into account, the prosecution's attempt to portray the flow of profits as suspicious appears wholly artificial. The document does not disclose any clandestine diversion, concealment, or unauthorised appropriation; rather, it evidences a consensual inter-se arrangement between partners, operating from the inception of the partnership, with full knowledge and consent of the concerned partner.

614. Even at this stage, the prosecution does not point to any statutory prohibition, any contractual bar in the Joint Venture Agreement or partnership arrangement, or any provision of the Excise Policy which restricts or regulates the manner in which profits or inter-se partner adjustments may be structured or routed. The mere fact that profits may ultimately accrue disproportionately to one participant does not, by itself, attract criminality. There exists no principle in law

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which mandates that profit distribution must invariably mirror shareholding percentages, nor is any deviation from pro-rata distribution ipso facto illegal. Commercial practice recognises that profits or economic benefits may legitimately flow unevenly on account of operational control, managerial responsibility, prior understanding, or inter-se adjustments agreed between partners. Document D-9 squarely places the present case within this legitimate commercial domain by recording that the routing of profits was the result of a prior mutual understanding and express consent, and not a unilateral act or covert diversion.

615. Even when examined through the lens of partnership law, the legal position remains well settled. A conjoint reading of the provisions of the Indian Partnership Act, 1932 places contractual autonomy at the centre of the partnership framework. Section 4 defines partnership as a relationship founded on agreement to share profits. Section 13(b) expressly provides that partners are entitled to share profits equally unless otherwise agreed, thereby recognising unequal or disproportionate profit sharing pursuant to contract. Sections 13(a), 13(c) and 13(d) further recognise legitimate inter-se financial adjustments, including remuneration, interest, indemnification and reimbursement, which may naturally result in one partner receiving substantially higher monetary inflows than another. The Act prescribes no ceiling or proportional limit on profit allocation and does not

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prohibit a dominant or majority flow of profits to one partner pursuant to consented arrangements.

616. At this juncture, the prosecution has attempted to superimpose an additional narrative by portraying PW-270 (Prem Rahul Manduri) as a mere conduit or proxy acting on behalf of approver Raghav Magunta Reddy (PW-226). This theory, however, does not find support either from the contemporaneous documentary record or from the logical chain of circumstances emerging on record. If PW-270 were indeed acting only as a front or benami for another, there exists no rational explanation as to why he would expressly consent to his contractual share of profits being routed to the account of A-5 (Arun Ramachandran Pillai), rather than to any entity or account connected with the alleged principal. Such conduct is wholly inconsistent with the prosecution's own theory of proxy ownership or concealed beneficial interest. It is in this context that the prosecution has sought to rely upon the statement of PW-270 to dilute the evidentiary impact of the Joint Venture Agreement (JVA), dated 29.10.2021 which is D-72 (5660-5666) itself. However, this attempt is legally untenable. PW-270 has unequivocally admitted his signature on the JVA and has stated that he *"received the aforesaid documents through post and after signing sent them back"*. Once such admission stands on record, the execution of the document stands proved within the meaning of Section 67 of the Indian Evidence Act. Upon proof of

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execution, the contents of the written instrument attract the statutory bar contained in Sections 91 and 92 of the Evidence Act, which prohibit oral contradiction, variation or disclaimer of the terms of a written contract. The law raises a settled presumption that a person who appends his signature to a written instrument does so with knowledge of its contents and with the intention of being bound thereby. A bare assertion that the witness was unaware of the contents, without any legally recognised vitiating plea, is inconsequential and cannot dilute the evidentiary sanctity of the document.

(emphasis supplied)

617. Significantly, PW-270 has not alleged, either in his statement or otherwise, that the Joint Venture Agreement (JVA) was executed under fraud, misrepresentation, coercion, undue influence, or any other circumstance recognised in law as vitiating consent. He has not claimed that the document was blank or incomplete at the time of signing, nor has he alleged deception as to the nature of the instrument. In the absence of such foundational pleas, the belated attempt to disclaim the contents of the JVA amounts to nothing more than an impermissible oral contradiction of a written contract, expressly barred under Section 92 of the Evidence Act. The Court is, therefore, constrained to hold that the statement of PW-270, insofar as it seeks to dispute or deny the contents of the JVA after admitting his signature thereon, is legally inadmissible and does not create even a prima facie

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dent in the evidentiary value of the JVA. The Court proceeds on the settled presumption that the Joint Venture Agreement was validly executed with full knowledge of its contents by all signatories. The subsequent conduct relied upon by the prosecution namely, the application moved by PW-270 for exiting the Joint Venture Agreement, also does not advance the conspiracy narrative as he himself in his statement dated 12.10.2022 has stated that he was forced to exist the firm as he was not able to give bank guarantee. Withdrawal from, or restructuring of, a commercial arrangement at a later stage is a business decision and, in the absence of any contemporaneous incriminating circumstance, cannot retrospectively convert an otherwise lawful profit-sharing arrangement into a criminal conspiracy. No material is shown to suggest that the exit from the JVA was triggered by exposure of illegality, receipt of illicit funds, or any enforcement action, nor is it shown to be temporally or causally linked to any alleged offence. Commercial disengagement, without more, remains legally neutral.

618. Crucially, for the prosecution's theory to even prima facie qualify as involving *"proceeds of crime"*, it must establish a clear causal nexus showing that the profits were generated as a consequence of an illegal act and that their transfer was in pursuance of such illegality. In the present case, no illegal clause in the JVA is identified, no violation of the Excise Policy is demonstrated, and no evidentiary

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linkage is shown between the profit routing and any act of corruption, abuse of office, or policy manipulation. On the contrary, Document D-9 affirmatively demonstrates a lawful, consensual, and pre-existing commercial arrangement governing the manner of profit disbursement.

619. Viewed thus, the prosecution's attempt to characterise the alleged transfer of approximately 61% of profits as inherently suspicious stands dismantled both factually and legally. Absent proof of a prohibitory contractual clause, a statutory violation, or an illegal source of income, and in the face of contemporaneous documents evidencing mutual understanding, consent, and absence of objection, the allegation rests on assumption rather than law and does not disclose even a prima facie case.

(III) Outcome of Evaluation

Conspiracy-Absence of Participation, Contingency-Based Theory, and Conduct Inconsistent with Alleged Design

620. At the outset, it bears emphasis that A-7 was concededly not a member of the so-called *"South Group"* that is alleged to have travelled to Delhi and stayed at Hotel Oberoi between 14th and 17th March 2021. It is equally undisputed that A-7 was not a participant in the meetings purportedly held during 21.05.2021 at Gauri Apartment, nor was he present at the meeting allegedly convened at ITC Kohinoor,

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Hyderabad, on 19.06.2021, which, according to the prosecution, is where the conspiracy is said to have crystallised and where an alleged decision was taken to pay an upfront amount of ₹20-30 crores to A-3 for *"tweaking"* the policy.

621. On the prosecution's own showing, therefore, A-7 stood entirely outside the meetings that are projected as the formative and decisive moments of the alleged conspiracy. The edifice of conspiracy sought to be erected against A-7 is thus not founded on participation, presence, or contemporaneous conduct, but rests on a narrative constructed in hindsight.

622. More fundamentally, the conspiracy theory propounded by the prosecution is inherently contingent and speculative. It proceeds on the presupposition that M/S Indospirits would first secure an L-1 licence, and thereafter be appointed as a distributor by M/S PRI. This two-stage sequence was not within the control of any of the alleged conspirators. The grant of an L-1 licence is a statutory and regulatory process, and the subsequent appointment of a distributor is a commercial decision of the manufacturer. Significantly, neither M/S PRI nor M/S Diageo is alleged to be a participant in the conspiracy. These were not ancillary or peripheral contingencies; they were the very foundations on which the prosecution's theory of *"recoupment"* of alleged upfront payments rests. Absent these events, the alleged

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conspiracy would be commercially irrational and incapable of fruition.

(emphasis supplied)

623. The actual course of events during the implementation of the policy does not support the prosecution's case of a pre-planned and effectively executed conspiracy. M/S KGRL failed to secure an L-7Z licence even in the first round. M/S Indospirits (IMPL) was required to withdraw its initial application for grant of an L-1 licence after issuance of three show-cause notices, the last of which was issued in the final week of October. This is so despite the allegation that A-7 had already paid ₹30 lakhs to A-2. If an arrangement of the nature alleged, operating at the highest levels, had in fact existed, such repeated regulatory impediments would not have arisen.

624. The inconsistency becomes more pronounced when it is noted that, notwithstanding the allegation of receipt of substantial *"upfront"* amounts, the persons said to be party to the conspiracy were unable to secure even routine regulatory approvals. The assertion that the Dy. CM (A-8) and CM (A-18) were in a position to ensure favourable outcomes stands at variance with the record, which shows that M/S Indospirits encountered repeated regulatory obstacles and did not obtain the L-1 licence with ease, if at all.

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625. The record also reflects that M/S Indospirit Marketing Pvt. Ltd. (IMPL – JV), by application dated 09.09.2021, initially applied for grant of an L-1 licence showing only two partners, M/S IMPL and M/S Indospirit Distribution Pvt. Ltd. (IDPL). No entity alleged to form part of the *"South Group"* was shown as a partner at that stage. If, as suggested, it had already been decided that recoupment would be effected through this entity, there was no reason for excluding the supposed beneficiaries from the partnership at inception. The structure of the application does not indicate a settled or pre-existing design.

(emphasis supplied)

626. It is a matter of record that at a later stage accused persons associated with the South Group were inducted. Even thereafter, the application did not receive any preferential treatment. Three deficiency memos were issued, and ultimately the application was withdrawn as the entity failed to meet the prescribed turnover eligibility of ₹150 crores. The sequence indicates scrutiny and non-compliance rather than facilitation.

627. The contradiction becomes sharper when examined in the context of the allegation concerning the second draft GoM report. The prosecution asserts that the draft was prepared from pages supplied by members of the South Group and that the turnover criterion was enhanced to ₹500 crores per year for the preceding five

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years. Had such a stipulation been retained, entities such as M/S Indospirit would have been rendered ineligible altogether. The very condition said to have been introduced at their instance would have defeated the alleged object of recoupment.

628. On a cumulative reading, these circumstances do not disclose acts in furtherance of a conspiracy. **Acceptance of the prosecution case as it stands would lead to the conclusion that the alleged beneficiaries introduced eligibility conditions that disqualified themselves. Such a position does not accord with ordinary probabilities and exposes a fundamental inconsistency in the theory advanced.**

(emphasis supplied)

629. Further, M/S KGRL was subjected to proceedings by the Income Tax Department, initiated at the instance of the very Excise Department that is alleged to have favoured the group. Even the approver, Raghav Magunta Reddy (PW-226)-who claims to have paid ₹10 crores in March and ₹15 crores in June-could not secure a No Objection Certificate for operating the Airport Zone. These facts are wholly inconsistent with the prosecution's thesis of undue favour, assured outcomes, or policy-level manipulation.

(emphasis supplied)

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630. In sum, the contemporaneous conduct and objective outcomes during the execution of the policy demonstrate persistent regulatory resistance rather than preferential treatment. The difficulties faced by the so-called *"South Group"* and by A-7 at every material stage decisively negate any inference of undue favour or pre-arranged benefit. **Far from supporting a conspiracy of the magnitude alleged, the record reveals a sequence of events that is antithetical to the very notion of a successful, centrally controlled conspiratorial design.**

Allegation against A-6

631. A-6 Mootha Gautham is alleged to have provided the corporate infrastructure and financial channels necessary for layering and integration of proceeds derived from the manipulated wholesale arrangement. It is stated that entities effectively under his control, including IANPL, APPL, CDG Broadcasting Pvt. Ltd., and Zeus Networking Pvt. Ltd., received substantial amounts either directly from M/S Indospirits or indirectly through accused Arun Pillai (A-5), without any legitimate commercial basis. Transfers described as payments for a *"programme"* or as *"loans"* are alleged to be unsupported by agreements, broadcast records or genuine loan documentation, with key witnesses asserting they were made to sign as attesting witnesses without understanding the contents. The prosecution contends that A-6 knowingly facilitated the masking of

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tainted funds as business receipts or repayments in furtherance of the conspiracy.

Allegations against A-4

632. The prosecution describes A-4, Abhishek Boinpally, as a key member of the *"South Group"* and attributes to him a participative role in the alleged conspiracy. It is alleged that he was in Delhi between 14.03.2021 and 17.03.2021. During this period, Vijay Nair is stated to have met the South Group on 14.03.2021, and it is alleged that a 36-page printout was handed over to him, which is said to be the second draft GoM report dated 19.03.2021, later finalized on 22.03.2021.

633. It is further alleged that A-4 attended the meeting arranged at Gauri Apartment on 21.05.2021 and was also present at the meeting held at ITC Kohinoor on 19.06.2021. These meetings are relied upon by the prosecution as forming part of the sequence of events connected with the alleged conspiracy.

634. The prosecution also alleges that A-4 acted as a mediator in relation to the payment of ₹15 crores to A-17 K. Kavitha by Raghav Magunta. According to the prosecution, the said amount was delivered to A-21 Vinod Chauhan through Ashok Kaushik, Personal Assistant to A-17 K. Kavitha, and was thereafter routed towards Goa. It is further alleged that on 20.09.2021, A-4 was present at a meeting where A-7

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Sameer Mahendru introduced him and A-5 Arun R. Pillai as potential investors in M/S Indospirits.

635. On the financial aspect, it is alleged that A-4 invested ₹1.29 crores in M/S India Ahead News by purchasing its logo. The prosecution further states that ₹3.85 crores were received from A-6 Mootha Gautam, stated to have emanated from M/S Indospirits, out of which ₹3.70 crores were transferred to CDG Broadcasting, described as being owned by A-4 Abhishek Boinpally and A-6 Mootha Gautam, and ₹85.5 lakhs were transferred to Pankaj Arora of CDG.

Allegation against A-5

636. The prosecution portrays A-5, Arun Ramchandra Pillai, as a member of the alleged *"South Group"* and attributes to him participation in certain meetings said to form part of the broader conspiracy. It is alleged that he was present in Delhi between 14.03.2021 and 17.03.2021, during which period Vijay Nair (A-3) met the South Group on 14.03.2021 and was handed over a 36-page printout stated to be the second draft GoM report dated 19.03.2021 later finalized on 22.03.2021. He is further alleged to have attended the meeting at Gauri Apartment on 21.05.2021 and the meeting at ITC Kohinoor on 19.06.2021.

637. It is also alleged that he invested in M/S Indospirits with 32.5% shareholding, the investment being stated to have been

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arranged by A-17 K. Kavitha. While the shareholding is described as 32.5%, the actual amount invested is stated to be ₹3.40 crores. The prosecution further alleges that approximately 61% of the profits of M/S Indospirits, quantified at about ₹29.29 crores, were received by him or distributed at his instance as part of a recoupment plan, a portion of which was shared with A-4 Abhishek Boinpally.

Consolidated Consideration of Allegations against A-4, A-5 and A-6 under the "Media-Transaction Theory"

638. The allegations pertaining to A-4, A-5 and A-6 are being examined conjointly at this stage for reasons of convenience and continuity. The prosecution has projected a composite narrative linking these three accused in relation to transactions involving APPL and IANPL It is alleged that certain monetary credits were made by A-4 and A-5 to the aforesaid entities and that the acquisition of the logo/trademark of the *"India Ahead"* news channel formed part of the broader design attributed to them. This cluster of allegations has been described by the prosecution as forming part of what may conveniently be referred to as the *"Media Transaction Theory"*.

639. While the principal financial dealings are stated to have taken place between A-4 and A-6, the prosecution seeks to weave A-5 into the same framework on the premise of an overarching conspiracy. It is alleged that substantial sums, far in excess of declared investments, were received from M/S Indospirits' profits and

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thereafter routed onwards to entities associated with A-6 and ultimately to entities controlled by A-4 under the guise of loans or commercial transactions.

640. A-6 is alleged to have provided the corporate infrastructure and financial channels for layering and integration of the alleged proceeds of crime, with entities under his control, including media and networking companies, receiving funds described as programme payments or loans, allegedly unsupported by contemporaneous agreements, broadcast records or genuine loan documentation. According to the prosecution, these interlinked financial movements constituted the mechanism by which the alleged advance funding was repaid and profits were distributed among the conspirators, thereby rendering the participation of all three accused integral to both the financing and profiteering facets of the alleged conspiracy.

641. In addition, the meetings stated to have taken place at Gauri Apartment, Delhi, and at ITC Kohinoor, Hyderabad, are also relied upon by the prosecution as part of the same sequence of events. Since these allegations are projected against A-4 and A-5 in a connected manner, they are being considered together for the purpose of appreciating the prosecution narrative in its entirety.

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642. After addressing the common allegations and overlapping circumstances, the contentions specific to A-4 and A-5 shall be examined separately on their individual merits.

Media–Transaction Theory:

(A) Loan Agreement dated 18.02.2022

643. The prosecution has sought to cast a cloud over the transaction involving the transfer of ₹3.85 crores between A-5, A-6 and A-4 by assailing the authenticity of the Loan Agreement dated 18.02.2022, which is D-29. The objection rests solely on two planks: first, that the witnesses to the document signed it at the instance of A-6 without being aware of its contents; and second, that the document is neither registered nor notarised. In support, reliance has been placed on the statements of PW-14 Pottipochayalu Madhan and PW-29 Asif Baba. Upon a close and careful scrutiny of the record, this line of reasoning is found to proceed on a clear misapprehension of law and, more importantly, to stand contradicted by the prosecution's own evidence.

644. Both PW-14 and PW-29 have unequivocally stated that they appended their signatures on the Loan Agreement dated 18.02.2022 and on the Asset Purchase and Trademark Assignment Deed dated 10.06.2022 in the capacity of witnesses and on the instructions of the Managing Director, Mootha Gowtham. They have further identified the signatures of A-6 and A-4 on the said documents

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on the basis of familiarity acquired during the course of their employment. Significantly, neither witness has disputed his own signatures nor questioned the signatures of the accused on the Loan Agreement. They also did not have made any suggestion, let alone an allegation, that the document was fabricated, forged, ante-dated, or executed without the consent of the parties concerned.

645. The limited evidentiary role of an attesting witness is too well settled to admit of debate. Such a witness is required only to speak to the factum of execution of the document. He is neither expected nor required in law to have knowledge of, or to depose about, the contents of the document or the commercial rationale underlying the transaction. The prosecution's attempt to impeach the agreement on the ground that the witnesses were unaware of its contents betrays a fundamental misunderstanding of the principles governing admissibility of private documents.

(emphasis supplied)

646. The fallacy in the prosecution's approach becomes even more apparent when tested against the scheme of the Indian Contract Act, 1872, which recognises the validity and enforceability of oral contracts. The law does not mandate attestation as a condition precedent to the validity of a contract. Even in the absence of any witness, a contract does not become void or suspect merely for want of attestation. To therefore discredit a written loan agreement on the

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ground that the attesting witnesses did not know its contents is to import a requirement which the law itself does not recognise.

(emphasis supplied)

647. If such a line of reasoning were to be accepted, it would enable the investigating agency to brand any private commercial document as sham on the basis of conjecture, without disclosing a single legally cognisable infirmity in its execution. This would amount to permitting narrative to displace evidence, an approach wholly alien to criminal jurisprudence.

648. The prosecution's further objection based on the absence of registration or notarisation is equally untenable. There exists no statutory mandate requiring compulsory registration or notarisation of a private loan agreement of this nature. The Registration Act, 1908 restricts compulsory registration to documents specifically enumerated therein, and a simple loan agreement does not fall within that category. The absence of registration or notarisation, by itself, carries no adverse legal consequence and cannot be treated as a circumstance undermining the genuineness of the document.

649. Viewed in its entirety, the reliance placed on the statements of PW-14 and PW-29 does not advance the prosecution case in the slightest. On the contrary, their evidence affirmatively establishes execution of the Loan Agreement dated 18.02.2022 and dispels any suggestion of fabrication or impropriety. The challenge

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mounted by the investigating agency is thus founded on a legally unsound premise and an evidentially hollow hypothesis, and cannot be permitted to sustain even a prima facie doubt as to the genuineness of the transaction.

(B) Pre-Existing Financial Dealings as Admitted by PW-29

650. The prosecution's narrative further suffers a serious setback from the statement of PW-29, who admits that an aggregate amount of Rs. 6.53 crores was received in the personal account of A-6 through nine transactions commencing from 10.11.2020. These transactions originate from a period anterior to the timeframe during which the prosecution alleges that the accused entered into any conspiracy relating to the Excise Policy. Once the prosecution's own witness acknowledges substantial financial dealings prior to the alleged conspiracy, the theory that subsequent transactions necessarily represent circulation of *"proceeds of crime"* becomes untenable. The record instead discloses an ongoing business relationship which has retrospectively been sought to be given a criminal colour.

651. The position is further fortified by another material portion of PW-29's statement, wherein he states: *"On being asked I state that I know Mr. Abhishek Boinpally, because my MD Mr. Mootha Goutham introduced me probably* ***in October 2020 with him as a potential investor in India Ahead News Pvt. Ltd.*** *and Shri Boinpally Abhishek wanted to see the financial statement of company*

Andhra Prabha Publication Ltd. and India Ahead New Pvt. Ltd. for which Mr. Boinpally was handed over some financial documents of both the company."

652. The extract is significant. It establishes that as early as October 2020, A-4 had been introduced as a prospective investor in IANPL, and had sought access to the financial statements of APPL and IANPL Such a request is consistent with customary commercial due diligence undertaken by an investor prior to entering the media business.

653. The chronology is decisive. October 2020 not only precedes the period during which the alleged conspiracy is said to have taken shape, but also aligns with the commencement of the financial transactions spoken of by PW-29. Both the financial dealings and the preliminary steps in the media domain thus trace back to a time anterior to the projected conspiracy period. The subsequent purchase of the logo and the acquisition of CDG Broadcasting Pvt. Ltd. and Zeus Networking Pvt. Ltd. appear to be a natural progression of an intention that had already crystallised in October 2020. The sequence, from examination of financial records to structured corporate acquisitions, bears the hallmarks of a continuing commercial engagement in the media sector. When viewed in this light, the attempt to attribute a criminal complexion to transactions demonstrably rooted in pre-existing business dealings does not sustain scrutiny.

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(C) Acquisition of CDG Broadcasting Pvt. Ltd. and Zeus Networking Pvt. Ltd.

654. Upon a careful and conjoint reading of the statements of PW-15 Smt. Lalita Dutt and PW-16 Sh. Pankaj Arora, this Court finds that the acquisition of shares of M/S Zeus Networking Pvt. Ltd. stands explained through contemporaneous corporate records and formal documentary instruments, which significantly pre-date the period during which the prosecution alleges the hatching of conspiracy.

655. PW-15, who was associated with the accounts and financial records of CDG Broadcast Pvt. Ltd., first delineates the shareholding structure of Zeus Networking Pvt. Ltd. and identifies the issuance of share certificates. She categorically states: *"...On being asked I state that following are the shareholding pattern of this company:.."*.

656. She thereafter records that CDG Broadcast Pvt. Ltd. held 30,00,000 shares, Sh. Pankaj Arora held 45,000 shares, and Smt. Arpita Arora held 5,000 shares, making a total of 30,50,000 shares. PW-15 further identifies the contemporaneous share certificates by stating: *"...On being asked about the documents available at page 53-60, I state that vide these documents Director of Zeus Networking Pvt. Ltd. issue share certificate of shareholder of Zeus Networking Pvt. Ltd. i.e. CDG Broadcast Pvt. Ltd. vide certificate No. 08 to 11 all dated 18th March of 2021…"*.

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657. She also identifies the signatures of PW-16 Sh. Pankaj Arora and Smt. Arpita Arora on these share certificates in their capacity as Director and authorised signatories. Thus, the documentary record unequivocally establishes that as on 18.03.2021, the shareholding position of Zeus Networking Pvt. Ltd. stood formally recorded and crystallised.

658. Thereafter, both PW-15 and PW-16 speak to the commencement of acquisition of shares by A-4 and A-5 through deeds of pledge, beginning immediately after the issuance of the share certificates. PW-16 Sh. Pankaj Arora states in clear terms: *"….On being asked I state that three deeds of pledge executed between Director of CDG Broadcast Pvt. Ltd. i.e. me and my wife Ms. Arpita Arora and the Acquirer of shares of company Zeus Networking Pvt. Ltd. vide deeds of pledge dated 24.03.2021, 23.08.2021 and 29.09.2021…."*.

659. He further explains the nature of the transaction by stating: *"...Director of Zeus Networking Pvt. Ltd. pledge shares to the acquirers i.e. Mr. Mootha Gautam and Mr. Abhishek Boinpally equal to the amount received from them…."*.

660. PW-15 corroborates this position by identifying the same set of pledge deeds and signatures, thereby confirming that the acquisition process was structured through recognised corporate instruments and unfolded over a defined timeline commencing from

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24.03.2021. As regards consideration, PW-15 identifies the consent documents permitting sale of shares and records:

> *"...Director of CDG Broadcast Pvt. Ltd. has signed consent letter for disposing of / selling of 30,00,000 (98.36%) shares of CDG Broadcast Limited holding in Zeus Networking Pvt. Ltd. on an agreed value of Rs. 5.70 Crores….".*

661. Neither PW-15 nor PW-16 attributes the movement of consideration to any cash transaction or informal channel. On the contrary, the witnesses consistently speak to the transaction having been carried out through banking channels, supported by corporate approvals, consent letters, pledge deeds and share certificates.

662. What emerges from the above evidence is a continuous and documented corporate transaction, commencing with issuance of share certificates on 18.03.2021, followed by execution of pledge deeds beginning 24.03.2021, and culminating in eventual transfer of shares. This entire sequence preceded by the alleged meeting and alleged hatching of conspiracy relied upon by the prosecution.

663. In this backdrop, the prosecution's theory that the acquisition of Zeus Networking Pvt. Ltd. was a product of a later conspiracy or a mechanism for layering of alleged proceeds of crime is rendered fundamentally flawed. The very foundation of the alleged layering collapses when the prosecution's own relied-upon witnesses demonstrate that the acquisition process was already underway through formal corporate documentation and regulated banking

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transactions much prior to the alleged conspiratorial period. The evidence of PW-15 and PW-16, far from supporting the prosecution narrative, instead discloses a pre-existing commercial transaction, thereby striking at the core of the allegation that the acquisition of Zeus Networking Pvt. Ltd. was conceived or executed as part of any criminal conspiracy.

(D) Examination of Trademark Acquisition in the Context of the Alleged Recoupment Theory

664. The record reflects that the trademark *"India Ahead"*, together with its goodwill, was transferred by A-6 (APPL) to A-4 for a consideration of Rs. 1.30 crores through a duly executed and registered Assignment Deed dated 10.06.2022 (D-87) and Invoice dated 31.07.2021. The consideration moved through normal banking channels and the transaction is supported by formal documentation. On the face of it, the arrangement bears the character of a commercial transfer of intellectual property.

665. The prosecution has attempted to suggest that this transaction was a means for recoupment of alleged amounts through A6. However, the contemporaneous material does not support such a conclusion. The financial dealings between A4 and A6 commenced in October 2020, which is prior to the period during which the alleged Excise Policy conspiracy is projected to have taken shape. The initial advancement of funds thus precedes the alleged policy deliberations.

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The sequence of events does not lend any support to the inference that the trademark acquisition was conceived as part of a recoupment mechanism connected to a later alleged conspiracy.

666. When the transactions are considered cumulatively, beginning with the infusion of funds, followed by the acquisition of the *"India Ahead"* intellectual property, and thereafter the acquisition of ZNPL, they indicate a consistent commercial course of conduct. The record shows that A-4 was exploring entry into the media and broadcasting sector, and the steps taken were accompanied by formal instruments, banking entries and regulatory compliances. Such features are consistent with a bona fide business arrangement.

667. Notably, there is no material on record showing any nexus between the acquisition of the trademark and alleged recoupment from M/S Indospirit. No document, correspondence or witness statement connects this transaction with the liquor business or with any understanding under the Excise Policy. In the absence of such linkage, the allegation rests on assumption. The material presently available points to a commercial transaction rather than to a device for recoupment within the alleged conspiracy.

(E) Advance Payment for Proposed Marketing Campaign by A-5 to A-6

668. The prosecution alleges that the remittance of Rs. 1.70 crores by A5 to entities connected with A-6, Rs. 1 crore to APPL on

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28.02.2022 and Rs. 70 lakhs to IANPL on 14.03.2022, was not towards any genuine marketing campaign but formed part of the alleged larger conspiracy. This allegation is founded principally on two circumstances: first, that unlike earlier campaigns executed by APPL for clients such as GoDaddy and Sporta Technologies Pvt. Ltd. (Dream11), no formal written agreement has been placed on record in the case of M/S Indospirits; and second, that the payment was made in advance, whereas in earlier assignments payments were structured after execution. On this basis, the transaction is described as lacking commercial substance.

669. On scrutiny, the allegation does not advance the prosecution case. It is not in dispute that the amounts were transferred through regular banking channels. The record further shows that concept papers relating to the proposed campaign were prepared and later produced before the investigating agency under Production Memo dated 08.11.2022 (D-89, Pgs. 6783–6796). The existence of these contemporaneous documents is of relevance and supports the position that preparatory steps had in fact been taken.

670. The absence of a formal written agreement between private parties, by itself, does not render a commercial transaction unlawful. Business engagements are often initiated on the basis of mutual understanding, particularly where advance consideration is paid and preliminary work begins pending formal documentation.

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There is no statutory requirement that payment for services must invariably follow completion of work. Advance payments are a recognised feature of commercial practice, and the timing or structure of payment depends upon the arrangement between the parties. A difference in payment modality, when compared with other transactions, cannot by itself justify an inference of criminality.

671. No material has been placed on record to indicate that the funds were diverted, concealed, or applied for any unlawful purpose. The preparation of campaign documents, traceable to specific records, further belies the suggestion of a sham arrangement. If the payment had no underlying commercial intent, there would have been little occasion to prepare and preserve detailed concept material.

(emphasis supplied)

672. The non-execution of the campaign is explained by the subsequent arraignment of A-5 in the present case. A commercial proposal that does not culminate in execution due to intervening events cannot, without more, be treated as evidence of conspiracy. The mere fact that a project did not fructify does not retrospectively alter the character of an advance payment.

673. On the material presently available, the transaction reflects a proposed commercial engagement supported by banking entries and contemporaneous documentation. No material has been

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brought on record to establish a nexus between this payment and the alleged Excise Policy conspiracy. The inference suggested by the prosecution is not supported by demonstrable material.

(F) Presence of A-5 and A-6 in the Meeting at Gauri Apartments

674. The allegation regarding the inception of the conspiracy at Gauri Apartments has already been examined in detail. Even at the cost of repetition, the present discussion is confined to the role attributed to A-4 and A-5 in that meeting.

675. The prosecution relies upon three participants as its witnesses, namely PW-1, PW-2 and the approver PW-20. The specific allegation against A-4, A-5 and A-11 is that they were discussing the taking of five to ten retail zones. It is further stated that PW-1 and PW-2 could assist in setting up the shops and providing staff for running them. In return, assistance would be extended to promote the brand *"Royal Green"* at such outlets and to facilitate its sale in the Telangana market.

676. Read in context, these statements indicate that certain private individuals were contemplating entry into the retail liquor business, with an intention to secure retail zones and arrange manpower if such entry materialised. A discussion about the number of retail zones and the requirement of staff is, by its nature, preparatory and commercial. It does not, by itself, disclose a criminal design.

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677. Even if the prosecution case is accepted at its highest, it is not shown that either A-4 or A-5 applied for any retail zone under the DEP-21/22. There is no material to suggest that they secured any licence, participated in the bidding process, or undertook any retail operations pursuant to the policy. The record does not reflect their involvement in the retail segment in any tangible manner.

678. Equally important is the absence of any allegation in these discussions of policy manipulation, influence over decision-making, quid pro quo, or bribery. There is no reference to altering the Excise Policy, no assertion of illegal gratification, and no material suggesting that the conversation travelled beyond a proposed commercial arrangement.

679. At best, what emerges is that certain business persons were exploring the possibility of entering a regulated trade and were discussing logistical aspects such as staffing and brand promotion. In the absence of any material linking such discussions to unlawful acts or corrupt intent, the allegation does not rise beyond a prospective business proposal.

(G) Meeting at ITC Kohinoor, Hyderabad — Alleged Finalisation of Conspiracy and Mode of Recoupment

680. The prosecution case, in its simplest articulation, is that the meeting held on 19.06.2021 at ITC Kohinoor, Hyderabad, constituted the stage at which the alleged conspiracy attained finality

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in terms of structure and execution. It is alleged that the wholesale profit margin under the L-1 licence was enhanced from 5% to 12% with a predetermined objective, that out of the enhanced 12% margin, 6% would be siphoned as *"upfront money"* for the benefit of A-3. The two wholesale entities projected as instrumental in this arrangement are M/S Indospirit (associated with A-7) and M/S BPSL (associated with A-9).

681. According to the prosecution, the mechanism of recoupment differed between the two entities. In the case of M/S Indospirit, the recovery of the alleged upfront component is stated to have been effected through transfer or routing of profits to A-5. In the case of BPSL, the alleged recovery was to be achieved by issuance of additional credit notes to retail zones purportedly controlled by the so-called *"South Group"*. Thus, the entire architecture of enhancement, payment of upfront money, and subsequent recoupment is stated to have been crystallised in the Hyderabad meeting.

682. The principal foundation for this narrative rests upon the statement of approver PW-20, who admittedly attended the said meeting. The investigating agency has relied upon three statements of PW-20: (i) his statement under Section 161 of Cr.P.C dated 21.09.2022, (ii) his statement under Section 164 of Cr.P.C dated 30.09.2022 (pre-pardon), and (iii) his post-pardon confessional statement recorded under Section 306(4) of Cr.P.C dated 24.11.2022.

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683. A comparative reading of these statements reveals variations in figures, description of the mechanism, and attribution of knowledge. However, at the stage of framing of charge, this Court does not embark upon a minute dissection of inconsistencies unless they are of such magnitude as to completely demolish the substratum of the prosecution case. The statements of approver PW-20 are the basis on which the prosecution has built its case of enhancement of margin, division of 6% out of 12%, and utilisation of Indospirit and BPSL as vehicles of recoupment.

684. Yet, an important nuance emerges. The alleged modus operandi, as narrated by PW-20, is largely premised upon what was conveyed to him by A-3. Though he was physically present in the meeting, the structure of profit distribution and recovery is not consistently attributed to his personal knowledge. In one version, he states that A-3 informed him; in another, he suggests that the *"South investors"* explained the arrangement somewhere after the retail vends were not being opened, which must be the period after bidding of retail zones; and in yet another, he presents the structure as told by A-3. This shift assumes significance because, if his confessional statements as well as statement under Section 161 are accepted in their entirety, the knowledge of the finalised conspiracy, particularly its financial structuring, appears to be derived from what was told to him rather

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than from acts personally executed or observed by him in the meeting.

685. This does not directly affect the acts allegedly performed by PW-20 in furtherance of the conspiracy, such as coordination of payments. However, it renders the confessional narrative comparatively fragile in so far as the conceptual architecture of the conspiracy is concerned. The tender of pardon was premised upon the expectation of a full and true disclosure. While this Court does not, at this juncture, enter into an adjudication on the truthfulness of the disclosure, it is evident from the recording of supplementary statements under Section 161 of Cr.P.C that the narrative evolved over time. Whether such evolution constitutes incompleteness or otherwise, nevertheless, it reinforces the settled rule of prudence that accomplice evidence requires independent corroboration on material particulars before it can safely be acted upon.

686. The necessity of corroboration is accentuated in the present case, particularly in light of the multiple supplementary statements recorded by the investigating officer and the progressive refinement of the alleged modus operandi. The meeting at ITC Kohinoor, though attended by PW-20, is, in part, presented through a lens of information conveyed to him. It is conceivable that he articulated the events in a manner that minimised his participatory

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role; equally, it is possible that he narrated what was explained to him.

687. Even so, at the present stage, this Court proceeds on the footing most favourable to the prosecution. Without discarding the statement of the approver, it is provisionally treated as a complete and truthful disclosure for the limited purpose of examining whether the alleged modus operandi coheres with the surrounding circumstances. The analysis, therefore, shall proceed in two distinct but interrelated dimensions:

First, on a factual plane, whether the enhancement of wholesale margin, the alleged payment of upfront money, the projected modes of recoupment through Indospirit and BPSL, the movement of funds to Delhi and thereafter to Goa, and the alleged utilisation in electoral activity, collectively form a chain consistent with the modus operandi described.

Second, on the evidentiary plane, whether this central component of the prosecution case, namely the finalisation of the conspiracy and its financial structure at the Hyderabad meeting, stands independently corroborated on material particulars beyond the uncorroborated word of the approver.

688. It is only after applying both tests that a holistic view can be formed as to whether the prosecution's projected

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circumstances, if assumed to be true at this stage, reasonably advance the alleged design or whether the edifice rests primarily upon uncorroborated accomplice statement. This exercise is confined to an even more superficial scrutiny than a prima facie assessment, limited to the allegations concerning what is stated to have transpired at the meeting at ITC Kohinoor, Hyderabad.

(emphasis supplied)

689. On the first aspect, the documentary trail itself raises serious doubt about the alleged finalisation of a conspiratorial design at the ITC Kohinoor meeting. It is the prosecution case that a 36-page document was handed over by members of the so-called South Group, namely A-4, A-5, A-11 and A-23, with A-4, A-5 and A-11 acting on behalf of A-17, and that this document formed the basis of the second draft GoM Report dated 19.03.2021. However, a plain reading of the second draft indicates that it contained provisions which, on the prosecution's own theory, would operate against the interest of the alleged conspirators. The clause limiting the wholesale margin to 12% stands in contrast to the first draft GoM Report dated 15.03.2021, which, far from fixing the margin at 5% as is now sought to be suggested, merely prescribed a minimum of 5% without any upper cap. The absence of a ceiling in the first draft would have enabled the margin to rise beyond 12%, thereby potentially conferring greater commercial advantage upon any wholesaler. If the *"South Group"*

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were indeed shaping the policy for their own enrichment, it is difficult to reconcile why they would introduce a restrictive ceiling of 12%, instead of retaining the open-ended formulation that could have yielded greater profit.

690. Similarly, the clause enhancing the turnover requirement of ₹500 crores per year for the past five years would have had the direct consequence of placing M/S Indospirit outside the zone of eligibility for the L-1 licence. Such a stipulation would hardly advance the interest of the very entity through which, according to the prosecution, the recoupment mechanism was to operate. On the prosecution's narrative, the *"South Group"* was acting in concert to secure advantage through Indospirit; yet the very draft attributed to them incorporates conditions detrimental to that objective. The internal logic of the conspiracy theory thus begins to unravel on its own terms.

691. The prosecution case in the main charge-sheet projected the genesis of conspiracy as commencing in April/May. Subsequently, the narrative was shifted backward to March, with the allegation that A-4, A-5 and A-11 were acting as conduits of A-17 during the drafting stage itself. This alteration is not a mere refinement of detail; it re-anchors the entire conspiracy at an earlier point in time. Such repositioning, when viewed alongside the contents of the March draft itself, renders the theory self-contradictory.

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692. The position becomes even more untenable at the stage of implementation. It is an admitted fact that M/S KGRL failed in the first bidding round. More importantly, M/S Indospirit initially filed its application dated 09.09.2021 for grant of L-1 licence without any accused belonging to the South Group as partner, which stands in clear contrast to what is alleged to have been decided in the meeting at ITC Kohinoor, Hyderabad. This aspect assumes decisive significance in light of the post-pardon confessional statement of PW-20, wherein he stated: *"There were two L-1. (1) M/S Indospirits, 65% partnership will be of Arun Pillai, who was with Abhishek and 35% will be of Sameer Mahendroo."*

693. Contrary to this assertion, the initial application was filed by M/S IMPL (JV), with IMPL and IMDL as partners. The very persons projected in the alleged modus operandi as recipients and vehicles of recoupment were not part of the original application structure. If the conspiracy stood crystallised in June with a defined recovery mechanism through specific partners, their absence from the foundational application strikes at the root of the projected design.

694. An equally significant omission relates to approver Raghav Magunta (PW-226), who, as per the prosecution, had already paid ₹25 crores as upfront money. The charge-sheet subsequently introduces Prem Rahul Manduri (PW-270) as a proxy of PW-226 and as a partner in M/S Indospirit. Yet there is no reference to this

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arrangement in the alleged meeting at Hyderabad, nor does it form part of the articulated modus operandi described by PW-20. When both the payment of upfront money and the corresponding mode of recoupment fail to find structural consistency with the contemporaneous record, the discussion does not even superficially cross the threshold of a prima facie case.

(emphasis supplied)

695. On the second aspect, it is well settled that the statement of an approver can be acted upon only when it receives corroboration in material particulars. In the present case, there is no independent witness examined to substantiate the alleged finalisation of the modus operandi at the Hyderabad meeting. PW-1 has candidly stated that though he was present at the venue, he was asked to leave before any substantive discussion took place. His evidence, therefore, can at best corroborate the factum of the meeting; it does not and cannot corroborate the alleged financial structuring or recoupment mechanism.

696. This assumes greater significance when the confessional statements of PW-20 themselves create the impression that the financial architecture was narrated to him by others. To that extent, his account borders on hearsay regarding the design of the conspiracy, even though he may have participated in certain acts thereafter. When the central plank of the prosecution, namely, the finalisation of

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enhancement, upfront payment and recoupment, rests upon such statements, the absence of independent corroboration in material particulars becomes a serious infirmity.

697. Thus, both on the internal consistency of the projected modus operandi and on the evidentiary requirement of corroboration, the prosecution case encounters substantial difficulty at its very foundation, and this Court has no hesitation in observing that it does not even superficially disclose a prima facie case.

(H) Alleged Role of A-4 and A-5 in the 36-Page Printout and the Second Draft GoM Report dated 19.03.2021

698. The prosecution has laid considerable emphasis on the allegation that members of the so-called *"South Group",* particularly A-4 and A-5, stayed at Hotel Oberoi between 14.03.2021 and 17.03.2021 and, during this period, caused a 36-page document to be printed. It is alleged that this document was handed over to A-3, thereafter reaching A-8, and that it ultimately formed the foundation of the second draft of the GoM Report dated 19.03.2021. This issue has already been examined in detail in paragraphs 326 to 339, wherein the material on record and the sequence of events were analysed clause by clause.

699. As noted in the earlier discussion, the clauses contained in the second draft GoM Report do not, on their plain reading, reflect any structural advantage to M/S Indospirit. On the contrary, certain

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conditions incorporated in the draft, most notably the requirement of a minimum turnover of ₹500 crores per annum for the preceding five financial years, would, if applied, have rendered M/S Indospirit ineligible for consideration of an L-1 licence. It is not disputed that A-5 was a partner in M/S Indospirit. The record further indicates that even when the eligibility threshold was subsequently reduced to ₹150 crores per annum for the preceding three years, the entity faced difficulty in meeting the criteria and securing the L-1 licence.

700. In this context, the prosecution's narrative presents an inherent inconsistency. If A-5 was indeed acting with the object of securing benefit for M/S Indospirit and facilitating recoupment of alleged *"upfront money"*, it is difficult to reconcile such an objective with the introduction or endorsement of a clause that effectively disqualified the very entity in which he held a partnership interest. A turnover requirement of ₹500 crores for five years operates as an exclusionary condition. It does not appear tailored to advance M/S Indospirit's eligibility; rather, it places it outside the zone of consideration. No satisfactory explanation has been offered as to why a participant in the alleged conspiracy would support a stipulation detrimental to his own firm.

701. The prosecution nevertheless seeks to rely upon the subsequent receipt of ₹29.29 crores by A-5 as profit from M/S Indospirit, projecting it as indicative of recoupment and as lending

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support to the broader conspiracy theory. However, profit distribution within a partnership, in the absence of material demonstrating an unlawful source or a direct nexus between the impugned policy clause and the alleged gain, cannot by itself sustain such an inference. When the chronology of events and the substantive content of the draft clauses are considered alongside the financial position of M/S Indospirit at the relevant time, the allegation that the 36-page document was conceived as an instrument of preferential treatment or structured recoupment does not withstand close scrutiny.

702. It has already been discussed that the alleged printout taken from Hotel Oberoi is stated to be of 36 pages, whereas the Second GoM Report runs into 38 pages. The prosecution attempts to reconcile this difference by suggesting that if the first and last pages are excluded, the remaining 36 pages correspond to the printout. On that basis, it is argued that certain pages were handed over to the Personal Secretary and thereafter to the stenographer for typing, thereby connecting the hotel printout with the Second GoM draft.

703. This reasoning does not withstand scrutiny. The printout itself was never recovered. In the absence of the original document, identity cannot be established merely by referring to the number of pages. A document is proved by its contents, not by arithmetic. Even if two documents contain an equal number of pages, that by itself does not establish that they are identical.

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704. The prosecution's own witnesses on this aspect, PW-71 and PW-72, do not support the present theory. PW-71 has stated that the document was around 20–25 pages. PW-72 has stated that it was approximately 25–30 pages. Neither witness refers to a 36-page document. If these two witnesses are relied upon as independent links in the chain, their statements assume significance. Their version is plainly inconsistent with the suggestion that the printout was of 36 pages.

705. When the page count spoken to by the witnesses does not match the figure now sought to be relied upon, the foundation itself gets eorded. The attempt to equate a supposed 36-page printout with a 38-page draft by excluding two pages is, at best, speculative, particularly when the primary document is not before the Court.

706. In these circumstances, the theory advanced by the prosecution stands contradicted by its own evidence. After examining the statements of PW-71 and PW-72, it ought to have been apparent that the allegation lacked factual support. The introduction of such an allegation, unsupported by the prosecution's own witnesses, gives rise to a legitimate concern that it was inserted to cast a cloud over the process and to create an impression of impropriety. Sensationalism can never be the objective of an investigating agency. The sole object of investigation must remain the discovery of truth.

(emphasis supplied)

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(I) Alleged Proxy Induction of A-5 and Recoupment Theory — Assessment in the Context of Profit Distribution and larger conspiracy.

707. The controversy regarding the transfer of approximately 61% of the profits from M/S Indospirit to A-5 has already been comprehensively addressed. Even at the cost of repetition, it is observed that on examination of the contemporaneous record, particularly Document D-9 and the Joint Venture Agreement, it was found that the routing of profits was founded on a prior mutual understanding among the partners, was consensual in nature, and was not shown to contravene any statutory provision, contractual restriction, or clause of the Excise Policy. No material was identified to suggest clandestine diversion, illegality, or linkage with any act of corruption. The legal position under the Partnership Act and the Evidence Act was also analysed, and it was concluded that disproportionate distribution of profits, by itself, does not attract criminality in the absence of a demonstrated illegal source or causal nexus with an unlawful act.

708. Even so, when the matter is revisited from the standpoint of alleged conspiracy, the prosecution's further projection requires scrutiny. It has been suggested that the induction of A-5 into the partnership of M/S Indospirit was engineered on the premise that he was merely a nominee or front for A-17 (K. Kavitha) and that the substantial portion of profits routed to him represented recoupment for

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her benefit. This assertion, though pressed with emphasis, is unsupported by any material demonstrating that A-5 held his interest benami or that the profits credited to him were ever transferred onward, shared with, or placed under the dominion or control of A-17 (K. Kavitha). There is no documentary trail, banking evidence, communication, or witness statement establishing any obligation on his part to account for such profits to her. A theory of recoupment necessarily presupposes proof of the onward flow of funds to the alleged ultimate beneficiary. In the absence of even a specific allegation identifying the manner, mode, or occasion of such transfer, much less proof thereof, the proxy narrative remains without factual foundation.

709. It is true that conspiracies are seldom proved by direct evidence and may legitimately be inferred from surrounding circumstances. However, such inference must arise from a firmly established chain of material facts pointing towards a meeting of minds and a shared unlawful object. Each link in that chain must be supported by tangible evidence, and the cumulative circumstances must reasonably exclude an innocent explanation. The mere fact that profits accrued in a particular proportion, or that one partner received a dominant share, does not by itself constitute evidence of conspiracy in the absence of proof that the income was illegally generated or diverted. Criminal liability cannot be inferred from commercial

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structuring alone. Where contemporaneous documentation reflects a lawful and consensual arrangement, and where no material connects the impugned profits to the alleged beneficiary, the superimposition of a conspiracy theory rests on suspicion rather than substantiated inference and does not disclose even a prima facie case.

(J) Allegation against A-4 for Coordinating the Amount Received from Approver PW-226

710. Upon a conjoint reading of the main charge-sheet as well as the supplementary charge-sheets, the prosecution case emerges to the effect that the alleged *"upfront money"* was initially generated by the so-called South Group, transferred to Delhi, and thereafter routed to Goa through hawala channels with the assistance of Angadia operators. The total quantum of such alleged illegal gratification is projected to be in the range of ₹90–100 crores. Out of this amount, a sum of ₹44.5 crores is stated to have been transported to Goa and attributed to A-16.

711. Significantly, out of the aforesaid ₹44.5 crores, an amount of ₹25 crores is alleged to be the very sum paid by the approver PW-226 at the instance of A-17, K. Kavitha. As per the prosecution, this ₹25 crores moved from PW-226 through PW-227 (stated to be a Personal Assistant at the Chennai office) to certain unidentified persons. At this juncture, the chain of movement admittedly breaks. Thereafter, the prosecution seeks to re-commence

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a separate chain, allegedly beginning from Delhi, tracing movement of cash through Dinesh Arora (PW-20), Ashok Kaushik (PW-195), Vinod Chandel (A-21), Mohit (A-22), Chandan Mishra (Angadia, Delhi), and thereafter through an Angadia firm (Kantilal group), via PW-180 (Sagar Patel), culminating in alleged delivery to A-16.

712. The specific allegation against A-4 is that, out of the said ₹25 crores, he personally coordinated a sum of ₹15 crores forming part of the amount allegedly paid by PW-226.

713. The approver PW-20, in his statement, asserts that the cash amount constituting the alleged *"upfront money"* reached Delhi through hawala channels. However, the material on record is conspicuously silent as to any evidentiary link demonstrating that the amount allegedly paid at Chennai by PW-226 was ever transported to Delhi. In the absence of any such material, a fundamental question arises as to how it can be assumed that the amount which allegedly reached Goa was the very same amount paid by PW-226.

714. This lacuna assumes heightened significance for the additional reason that PW-227 has failed to disclose essential particulars such as the place, date, mode, identity of the recipient, or even the phone numbers involved in the alleged payment of ₹15 crores. The prosecution material is entirely silent on these foundational aspects.

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715. It is no doubt settled that, at the stage of charge, even a broken or incomplete chain may, in a given case, be sufficient for consideration. However, where the witnesses relied upon are themselves participants in the alleged movement of large cash amounts, having admittedly aided the purported conspiracy by acts of abetment, their statement cannot be treated as independent corroboration of the approver PW-226 on material particulars. Such witnesses fall within the category of accomplice-like witnesses, whose statements require independent corroboration from unimpeachable material. It is also well settled that one accomplice cannot corroborate another. Reliance is placed upon the judgments of Hon'ble Supreme Court in **K. Hashim (supra), Somasundaram (supra), Laxmipat Choraria (supra) and A.R. Antulay (supra).**

716. The deficiency becomes more pronounced when it is noticed that there is not a single statement of any Angadia or intermediary who allegedly transferred the sum of ₹25 crores from Chennai to Delhi. The absence of such evidence is material, particularly because this ₹25 crores is the sole amount which the prosecution seeks to connect directly to the South Group through the statement of PW-226.

717. It is this very amount which the prosecution alleges was decided upon in the meeting dated 18.06.2021 at ITC Kohinoor, Hyderabad, where it is claimed that a sum ranging between ₹20–30

crores was to be paid by A-4 (South Group) to A-3. However, even this allegation suffers from material inconsistencies. In the main charge-sheet, the period of payment is projected as July to September, whereas in the supplementary charge-sheet, the timeline is shifted to June. Further, the payment allegedly made by PW-226 through PW-227 is stated to comprise ₹10 crores in March and ₹15 crores in June.

718. The prosecution material is conspicuously silent on the identity of the person who received the alleged cash, the manner of its delivery, and the route by which it allegedly reached Delhi. Despite this, the prosecution projects this chain as the only *"complete"* chain connecting the South Group to the alleged funds reaching Goa.

719. In the absence of evidence any material continuity of movement, identity of recipients, corroboration by independent intermediaries, or documentary support for inter-city transfer of cash, the prosecution's theory of movement of proceeds of crime rests on assumptions and inferential leaps rather than legally admissible material. Consequently, the alleged linkage between the payment attributed to PW-226, including the ₹15 crores alleged to have been coordinated by A-4, and the funds allegedly reaching Goa through Delhi remains unsubstantiated and incapable of sustaining a prima facie inference of a continuous, unified money trail.

(K) Impleadment of A-6, Mootha Gautham

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720. In this factual backdrop, the Court finds no legally sustainable basis for impleading A-6 as an accused. The prosecution does not allege that he participated in the conspiracy, nor does it attribute to him knowledge of the alleged conspiracy or awareness that the monies received by him were tainted. The sole circumstance relied upon is receipt of funds through disclosed banking channels. In the absence of any allegation of mens rea, agreement, or conscious facilitation, such material is insufficient to attract criminal liability. The impleadment of A-6 has, in turn, subjected media entities, IANPL and APPL, to extensive investigative scrutiny without any foundational material demonstrating their nexus with the alleged excise policy conspiracy. The investigation appears to have expanded beyond its legitimate scope, converting ordinary commercial and media transactions into objects of criminal suspicion without establishing the essential ingredients of any offence.

721. When the above material is read as a whole, two features stand out: (i) the prosecution challenges ordinary private documentation on a legally incorrect premise (registration/notarisation), and (ii) the prosecution simultaneously ignores its own chronology showing pre-existing investment intent (October 2020), pre-existing transactions (from 10.11.2020), and continous and documented corporate transactions beginning, well before the alleged conspiracy is said to have taken shape. The narrative

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now projected is, therefore, not an inference flowing from evidence; it is a post-facto construction which attempts to fit pre-existing commercial activity into a conspiracy framework by reversing the sequence of events. Such an approach does not assist the Court; it risks misleading the Court into treating chronology-defying suspicion as incriminating material. At the stage of framing of charge, conjecture and narrative cannot substitute for legally admissible circumstances disclosing the ingredients of the alleged offences.

Allegation against A-9

722. The prosecution attributes to A-9 (Amandeep Singh Dhall) a role in the alleged conspiracy on the premise that Brindco Sales Pvt. Ltd. (BSPL), as a wholesaler, issued credit notes, trade incentives and other commercial adjustments to retail licensees, which are alleged to have functioned as a conduit for generation and layering of illicit funds linked to the DEP-21/22. It is further alleged that these mechanisms facilitated undue benefit to select retail entities and were utilised, directly or indirectly, for diversion of funds towards political purposes, including the Goa Assembly Elections 2022.

723. The case against A-9, as projected, does not rest on any allegation of his participation in policy formulation or interaction with public servants at the decision-making stage. Rather, it proceeds on an inference drawn from post-policy commercial transactions undertaken by M/S BSPL in the course of wholesale operations, sought to be

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characterised as being in furtherance of the larger conspiracy. The prosecution seeks to rely on accounting entries, credit-note data and statements of approvers and corporate witnesses to suggest that M/S BSPL's commercial practices were not merely market-driven but were designed to camouflage proceeds of crime.

Analysis

(i) Alleged Presence of A-9 in the Meeting at Gauri Apartment

724. The prosecution alleges that a meeting was held at Gauri Apartment, Delhi on 21.05.2021. In support of the occurrence of the said meeting, reliance is primarily placed upon the statements of PW-1 and PW-2. However, a close and careful reading of their statements reveals that neither PW-1 nor PW-2 has named or referred to the presence of A-9 at the said meeting. The approver, PW-20, who is projected by the prosecution as a pivotal witness and whose statements form the backbone of the prosecution narrative, has also not stated anything to suggest the presence or participation of A-9 in the said meeting.

725. The investigating agency has nonetheless sought to project that, during the said meeting, discussions took place to the effect that A-9 would issue credit notes to retail zones allegedly controlled by the so-called *"South Group"*. This assertion, however, stands in stark contrast to the prosecution's own version as set out in

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the main charge-sheet. In the main charge-sheet, while referring to the meeting at Gauri Apartment, it is specifically stated that the meeting was attended by Accused Nos. A-3, A-10, A-4 and A-5, along with PW-1, PW-2 and approver PW-20. The omission of A-9 from this list is not incidental, but conspicuous. The alleged presence of A-9 thus finds no support from the statements of PW-1, PW-2 or PW-20, all of whom are prosecution witnesses and are stated to have been present and participating in the meeting.

726. It assumes significance that the prosecution itself places substantial reliance on the statements of approver PW-20, including his statements recorded under Sections 161 and 164 of Cr.P.C. as well as under Section 306(4)/306(6) of CrPC after tender of pardon, which the investigating agency asserts to be a *"full and true disclosure"*. Despite multiple statements made by PW-20 at different stages, there is a complete absence of any assertion regarding the presence, role or involvement of A-9 in the said meeting. In this factual backdrop, the subsequent attempt by the prosecution to establish the presence of A-9 solely on the basis of mobile phone tower-location data warrants close judicial scrutiny.

727. The central question that arises is whether, in the face of categorical statements of the alleged participants of the meeting, who neither name A-9 nor attribute any role to him, the prosecution can nonetheless rely upon tower-location data to assert his presence. The

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answer must necessarily be in the negative. Tower-location evidence, by its very nature, is incapable of pinpointing the precise physical location of a mobile phone or its user. Such evidence, at best, indicates a broad geographical area and cannot override direct oral statement of witnesses who were admittedly present at the meeting. Reliance on tower-location data, particularly when it runs contrary to the prosecution's own primary and star witnesses, does not advance the prosecution case and, in fact, erodes its internal consistency. At the stage of framing of charge, such material does not meet the threshold required to sustain the allegation of A-9's participation in the meeting.

728. The shift in the prosecution's stand from the main charge-sheet to the first supplementary charge-sheet is also of considerable relevance. The apparent necessity to introduce tower-location evidence to show the presence of A-9 indicates that, without such a projection, the subsequent allegation relating to issuance of credit notes to the South Group could not be connected to the alleged meeting or brought within the fold of the conspiracy narrative. The absence of A-9 from the said meeting, as borne out from the statements of PW-1, PW-2 and PW-20, renders the foundational premise of conspiracy qua A-9 legally tenuous and factually unsupported, even on the standard applicable at the stage of charge.

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729. It is further material to note that none of the witnesses stated to be present at the meeting have spoken about any discussion relating to recoupment of alleged *"upfront money"* through issuance of credit notes. On the contrary, the discussion, as emerging from the statements on record, was confined to issues relating to taking of retail zones and arrangement of manpower for running the retail vends. This assumes importance, as the prosecution seeks to retrospectively graft the theory of recoupment through credit notes onto a meeting where no such discussion has been spoken to by any participant.

730. Equally significant is the fact that A-9 is not shown to be present in any other alleged conspiratorial meeting. The prosecution has also not relied upon tower-location data to place him at the venues of other meetings said to be part of the conspiracy. Had such material existed, it would ordinarily have found mention in the record. The selective invocation of tower-location evidence, confined only to the Gauri Apartment meeting, further weakens the prosecution's attempt to establish continuity or participation of A-9 in the alleged conspiracy.

731. The prosecution has additionally relied upon the statement of Varun Chaudhary (PW-6) to suggest that a petition regarding cartelisation under the DEP-21/22 was filed at the behest of A-9. This allegation, however, sits uneasily with the prosecution's own theory of conspiracy, in which A-9 is projected as a conspirator.

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Admittedly, A-9 neither controlled any retail zone nor was he a manufacturer. He is not alleged to be a recipient of any upfront payment, nor is his company shown to have any association with any of the alleged beneficiary entities. The sole allegation against him pertains to issuance of so-called non-manufacturer credit notes, quantified by the investigating agency at ₹2.58 crores, an amount that appears wholly disproportionate and insignificant when juxtaposed against the prosecution's own allegation of recoupment of ₹100 crores, and that too spread over the entire period of subsistence of the Excise Policy.

732. Viewed cumulatively, the material placed on record does not disclose any credible, cogent or consistent basis to establish either the presence or the role of A-9 in the alleged meeting at Gauri Apartment on 21.05.2021. Nor does it sustain the prosecution's attempt to weave the allegation of issuance of credit notes into the broader narrative of criminal conspiracy. Even at the threshold stage of framing of charge, the record does not give rise to the degree of suspicion required in law and rests instead on conjecture and post-facto reconstruction rather than on reliable and consistent material.

(ii) Cash of ₹34,23,172/- is alleged to have been collected from M/S Ace Finance Private Limited in lieu of an equivalent amount of credit notes issued by A-9.

733. The allegation is that, as per an understanding and on the directions of A-3, A-9 (M/S BSPL) issued credit notes in favour of

M/S Ace Finance Private Limited on 18.04.2022 and 12.05.2022, and that, in lieu thereof, a total cash amount of ₹34,23,172/- was collected by the approver PW-20 from M/S Ace Finance Private Limited. It is further the case of the prosecution that the said amount of ₹34,23,172/- was ultimately handed over to A-4.

734. As per the material placed on record (D-185), it emerges that a total of 36 credit notes are stated to have been issued by A-9 (M/S BSPL) to M/S Ace Finance Private Limited, which admittedly operated two retail zones. However, the ledger (D-183) relied upon by the prosecution does not reflect these credit-note transactions in their entirety. Consequently, it becomes apparent that the said ledger does not depict the complete transactional dealings of M/S Ace Finance Private Limited, notwithstanding the fact that the period reflected therein spans from 1 April 2021 to 31 March 2023.

735. In this backdrop, a foundational question arises as to whether such selective ledger entries can be treated as admissible or reliable under Section 34 of the Indian Evidence Act. In this context, it is material to note that what has been produced is an Excel-sheet printout in the form of a ledger containing selective entries, and not the complete books of account maintained in the ordinary course of business. The Supreme Court has authoritatively held that loose sheets or selective extracts, divorced from an integrated and regularly maintained system of accounts, do not qualify as *"books of account"*

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within the meaning of Section 34 **(Central Bureau of Investigation v. V.C. Shukla (1998) 3 SCC 410)**.

736. This infirmity is further aggravated by the fact that no corresponding bank account entries evidencing withdrawal of the alleged cash amounts have been relied upon by the prosecution, nor has the voucher book or primary vouchers underlying the ledger entries been produced. It is well settled that entries in books of account, even when regularly kept, are at best corroborative and cannot, by themselves, fasten liability. The absence of such primary and corroborative material materially diminishes the evidentiary value of the ledger entries, which are, in any event, secondary records.

737. The aforesaid deficiencies are further compounded and travel to the threshold of inadmissibility by the fact that PW-106 has categorically stated that his company stands closed and, further, that no certificate under Section 65-B of the Indian Evidence Act has been filed. Additionally, neither the electronic device nor the accounting system from which the ledger was generated has been seized. In the absence of compliance with Section 65-B, electronic records lack admissibility **(Anvar P.V. v. P.K. Basheer, (2014) 10 SCC 473 and Vinubhai Haribhai Malaviya vs. State of Gujrat (2019) 17 SCC1)**.

738. The Special Expenses Ledger (D-184) reflects two entries of cash payments of ₹25 lakhs each, dated 27.12.2021 and 16.05.2022, allegedly made to PW-20 (the approver). Significantly,

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these two entries have not been associated by the prosecution with any alleged recoupment conspiracy. This Court also finds that no corresponding bank withdrawal entries, withdrawal slips, or cash-withdrawal instruments have been brought on record to establish the source or even the existence of such cash.

739. Equally significant is the fact that PW-20 himself has not stated the receipt of cash amounting to ₹34,55,912/- either in his confessional statement recorded under Section 164 of CrPC (pre-pardon) or in his statement recorded under Section 306(4) of CrPC (post-pardon). This alleged transaction finds mention for the first time only in a supplementary statement recorded under Section 161 of CrPC on 05.04.2023.

740. It is also well settled that ledger entries, even if assumed to be genuine, do not constitute substantive or independent evidence and can be used only for corroboration. Moreover, the version of PW-20 has to be treated merely as approver statement, it would still require independent corroboration on material particulars, in accordance with settled law, which is conspicuously absent. Reliance is again placed upon the judgments of Hon'ble Supreme Court in **K. Hashim (supra)**, **Somasundaram (supra), Laxmipat Choraria (supra) and A.R. Antulay (supra), (Laxmipat Choraria (supra); R. Dineshkumar @ Deena (supra)**.

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741. In an attempt to supply such corroboration, the prosecution relies upon the statements of PW-1 and PW-106. However, on a careful examination of their statements, it becomes evident that PW-1 and PW-106 cannot be treated as independent witnesses, as their statements disclose circumstances suggestive of intentional participation or facilitation in the alleged acts. Their evidence, therefore, attracts the settled rule of prudence applicable to accomplice-like witnesses and cannot furnish the independent corroboration required in law.

742. At this juncture, an additional circumstance arises which further undermines the prosecution case and remains wholly unexplained. If M/S Ace Finance Private Limited was not a participant in the alleged conspiracy, no plausible explanation is forthcoming as to why it would agree to release cash merely upon receipt of credit notes. This aspect assumes significance in light of the statement of PW-2 (Sikander Maan), who is stated to be associated with ADS Spirits and is the uncle of PW-1 (Virat Mann), and who has stated that the cash amount was released by PW-106, the owner of M/S Ace Finance Private Limited, at his request.

743. PW-2 has stated that his relationship with A-4 had become strained on account of A-4 having removed the staff provided by him, which he has described in the following words:

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"Mera karya in logon ke sath theek raha lekin February 2022 main Abhishek Boinpally ne mere saare aadmiyon ko apni sharan ke dukaanon se hatha diya aur meri koi bhi madad karne se mana kar dia aur phone uthana band kar dia."

744. In the face of such admitted strain in relations with A-4, the prosecution has offered no explanation as to why Virat Mann would nonetheless facilitate or assist the approver PW-20, who is projected to be acting on behalf of A-4. This aspect renders the prosecution version inherently improbable and remains unaccounted for on the material placed on record.

745. The ledger entries themselves record narrations such as:

- *"18.04.2022 – Being cash sent to Hauz Khas, approved by Virat Sir"*
- *"12.05.2022 – Being cash paid to Harjinder Ji (Brindco)"*

746. Notably, neither of these entries names PW-20 (Dinesh Arora) or Vijay Nair (A-3), against whom the principal allegations are sought to be levelled. This omission assumes significance, particularly when contrasted with the Special Expenses Ledger, where PW-20 is expressly referred to by the code name *"Mango"*. The absence of any reference to PW-20 or A-3 (Vijay Nair) in the impugned entries materially weakens the prosecution's attempt to link these ledger notations to the accused persons.

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747. It is also pertinent to observe that it is not the prosecution's case that M/S BSPL itself received the cash amounts. Had that been so, one would reasonably expect the ledger entries to be supported by corresponding bank credits, acknowledgments, or voucher-level documentation, none of which have been relied upon. On the contrary, the entries placed on record do not support such a theory. While some witnesses have suggested that the cash payment entries ought to have been made after receipt of rebate, particularly with reference to the entry dated 12.05.2022, such assertions rest solely on interpretation of the ledger entries, and not on any independent banking, voucher, or contemporaneous documentary evidence.

748. Viewed cumulatively, the material relied upon by the prosecution, being selective ledger extracts, unsupported by corresponding bank withdrawal entries, voucher books, primary vouchers, electronic certification, or consistent independent oral statement, falls short of the legal threshold required even at the stage of charge and does not, by itself, give rise to a grave or legally sustainable suspicion against the accused.

Issuance of Credit Notes

749. Under the DEP-21/22, the wholesale and retail liquor trade stood fully privatised. In such a market structure, the issuance of

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credit notes by manufacturers to retailers, routed through wholesalers, formed part of ordinary commercial practice. Owing to fixed margins and high operating costs, manufacturers issued credit notes to support sales or to adjust earlier transactions. The wholesaler acted only as a conduit in the supply chain and exercised no independent discretion in this regard. A credit note did not involve any payment of cash and operated solely as an accounting adjustment against future supplies.

750. It is an admitted position that the issuance of credit notes was not per se illegal and did not violate the DEP-21/22. Viewed in this background, the allegation that credit notes were issued to the so-called *"South Group"* as a mode of recoupment requires careful scrutiny and must rest on clear and independent evidence, and not on inferences drawn merely from a lawful commercial practice.

Issuance of Credit Notes by UBL to Certain Entities for Alleged Adjustment of Amounts Kept for the South Group by A-9

751. The material relied upon by the prosecution in relation to the issuance of credit notes by the manufacturer, United Breweries Limited (UBL), indicates that credit notes aggregating to ₹14.78 crores (D-130) were issued to the wholesaler for onward adjustment at the retail level. The prosecution does not dispute the issuance of these credit notes in their entirety; its objection is confined to a sum of ₹2.78 crores, which is alleged to have been passed on during November 2022 and February-March 2023 to certain retailers, namely M/S JSN

Infratech, M/S Samaria Technologies Pvt. Ltd., M/S Grow Tradex and M/S Adharv Enterprises, against the sale of beer. The allegation proceeds on the premise that the said amount represented an adjustment of sums allegedly meant for certain retailers after registration of the case.

752. It is also relevant that the DEP-21/22 came into force on 17.11.2021 and remained operative only for a limited period, before being withdrawn and replaced after 31.08.2022. The abrupt withdrawal of the policy created a situation that was not contemplated by the manufacturer, the wholesaler or the retailers at the time when their commercial arrangements were structured. The liquor trade operates on a daily basis, involving continuous movement of stock and a constant need to meet demand and supply. In such circumstances, post-withdrawal accounting adjustments, including reconciliation of credits and incentives earned on the basis of prior sales, cannot be treated as simple or mechanical exercises.

753. The manner in which the allegation is framed is also of relevance. The disputed credit notes are not projected as part of the original conspiracy but are sought to be characterised as a subsequent act, allegedly undertaken after registration of the case, either to conceal earlier transactions or to avoid criminal liability. Even if taken at face value, such an allegation attributes the conduct to a post-

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registration stage and does not, by itself, disclose a prior meeting of minds or a continuing conspiratorial arrangement.

754. It is further of significance that the quantum of the disputed amount is, by itself, wholly disproportionate to the allegation of recoupment of ₹100 crores. Even assuming the prosecution case at its highest, no material has been placed on record to show that the said amount was earmarked, reserved or intended for the so-called South Group. There is no documentary trail, instruction or supporting material connecting the impugned credit notes with any such alleged beneficiary. At the highest, even if the prosecution version is stretched to its outer limits, the allegation would amount to a commercial or contractual dispute between private parties rather than the commission of a criminal offence.

755. The prosecution further proceeds on the assumption that the manufacturer approved or issued credit notes merely at the instance of the wholesaler. The record, however, indicates that the credit notes were issued by the manufacturer pursuant to declared schemes linked to volume of sales. The liquor trade under the DEP-21/22 was regulated, with lifting, sales and payments being subject to contemporaneous data and regulatory oversight, shared among the relevant stakeholders. The issuance of credit notes thus remained linked to recorded sales performance and is not shown to be capable of unilateral manipulation by the wholesaler.

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756. It is also material that the manufacturer has not disputed the issuance of the impugned credit notes and has stated that they were issued strictly in accordance with its sales-based schemes. No material has been placed on record to suggest that these credit notes were issued dehors the declared scheme or in deviation from actual sales data.

757. The considered cumulatively material does not rise above conjecture and, at best, falls short of even raising a reasonable suspicion, far less the grave suspicion required in law to justify the framing of charge.

Outcome after Evaluation

Failure of the Prosecution's Conspiracy Theory qua A-9

758. The prosecution seeks to project the existence of a wider criminal conspiracy involving public servants, certain private individuals described as the *"South Group"*, and selected business entities, with the alleged object of influencing policy formulation, securing favourable licensing outcomes, and generating illegal gratification through upfront payments and commercial arrangements. The sustainability of such a charge necessarily depends upon the establishment of a prima facie meeting of minds, a discernible role attributed to each accused, and an identifiable unlawful gain flowing from the alleged conspiracy.

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759. Even in relation to M/S Indospirit, the prosecution attempts to construct a chain of circumstances by referring to the grant of the L-1 licence, the allegation of payment of ₹30 lakhs (upfront amount) as illegal gratification, the cartelisation complaint involving M/S KGRL attributed to A-7, the participation of A-5 and PW-275 (Prem R. Manduri) as partners allegedly representing the *"South Group"*, the projected involvement of A-4, and the allegation that A-3 exerted pressure upon M/S PRI to appoint M/S Indospirit as its distributor.

760. No such narrative, however, exists qua M/S BPSL or A-9. The prosecution has not alleged that A-9 played any role in policy formulation, influenced any public servant, facilitated the grant of any licence, participated in cartelisation, or exercised pressure upon any manufacturer or distributor. More importantly, there is a complete absence of any allegation or material suggesting any interaction, direct or indirect, between A-9 and any member of the so-called *"South Group"* in relation to coordination, financial dealing, or concerted action between A-9 and those who are alleged to have made upfront payments.

761. At the stage of framing of charge, the court is required to assess whether the material on record gives rise to *grave suspicion*. Such suspicion cannot rest on conjecture or association by proximity. It must be founded on material indicating a meeting of minds and a

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role played in furtherance of the alleged conspiracy. Equally material is the requirement to show what unlawful gain or advantage A-9 stood to derive from the alleged arrangement. In the present case, the prosecution has failed to indicate what benefit, commercial, monetary, or otherwise, could have accrued to A-9 or M/S BPSL from the alleged conspiracy. There is no allegation of payment of bribe by A-9, no allegation of receipt of illegal gratification, and no assertion of any quid pro quo involving public servants.

(emphasis supplied)

762. The case against A-9 rests primarily on vague references to an *"arrangement"* attributed to the approver, whether PW-20 or PW-226, without particulars, contemporaneous documentation, or independent corroboration. Such unparticularised assertions, standing alone, are insufficient in law to establish even a prima facie meeting of minds.

763. This conclusion is reinforced by admitted and objective circumstances. There is no admissible material to suggest that A-9 attended any meeting at Gauri Apartment. The spot identification memo dated 01.10.2022 (D-95) does not record his presence at the said location. It is undisputed that A-9 was not present at the alleged meeting at ITC Kohinoor, Hyderabad. Thus, the prosecution's own material excludes A-9 from the meetings which are projected as pivotal to the alleged conspiracy.

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764. Further, the prosecution relies upon the filing of a petition before the Hon'ble Supreme Court by Advocate Varun Chaudhary (PW-6), allegedly at the behest of A-9, challenging cartelisation and monopoly under the DEP-21/22. Such conduct is fundamentally inconsistent with the prosecution's theory of conspiratorial alignment. A person who is part of a conspiracy to cartelise or monopolise a policy framework would not ordinarily sponsor or support proceedings before the highest constitutional court alleging cartelisation and monopoly under that very policy. This circumstance militates against the existence of any shared intent or common design.

765. On a cumulative assessment, the prosecution's conspiracy theory does not sustain itself insofar as A-9 is concerned. The absence of interaction with the *"South Group"*, the lack of any attributed role in policy manipulation or licensing, the failure to demonstrate any unlawful gain, and the exclusion of A-9 from alleged conspiratorial meetings, render the allegation speculative. In this backdrop, any alleged deficiency relating to the issuance of credit notes cannot be examined in isolation. Such allegations must be assessed in the context of the prosecution's failure to establish a meeting of minds or motive-linked gain, both of which are essential to meet the threshold of *grave suspicion* at the stage of charge.

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Allegation against A-10

766. As per the case set up by the prosecution, A-10, Arjun Pandey, is alleged to have functioned as a close associate and operative of accused Vijay Nair (A-3) and to have played an active role in the alleged criminal conspiracy connected with the formulation and implementation of the DEP-21/22. It is alleged that he, along with A-3, met the Secretary General of ISWAI and raised demands for undue gratification from liquor manufacturers on the assurance that favourable provisions would be incorporated in the Excise Policy. The prosecution further alleges that he participated in meetings held at Gauri Apartments, New Delhi on 21.05.2021 and thereafter at ITC Kohinoor, Hyderabad on 19.06.2021, where the modalities of benefit-sharing and recovery of alleged upfront payments were discussed.

767. It is further the prosecution's case that, during the relevant period, A-10 was working as President (Sales and Marketing) of India Ahead News, and that India Ahead News received an amount of ₹1 crore from M/S Indospirits, while APPL received ₹85 lakhs, purportedly as part of the alleged recoupment of bribe amounts under the guise of media-related transactions. It is alleged that India Ahead News, in turn, paid a sum of ₹85 lakhs to A-10 as consultancy charges. The prosecution also attributes to him the role of facilitating additional credit notes of approximately ₹1 crore for retail zones allegedly controlled by Raghav Reddy through accused A-9 (Amandeep Singh

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Dhall), and alleges that he remained in constant touch with accused A-15 (Arvind Kumar Singh) at the time when funds were allegedly being routed to Goa.

768. It is further alleged that A-10 was in contact with Ashok Kaushik (PW-195), the personal assistant of K. Kavitha, who is stated to have been involved in the transfer of alleged upfront money to Goa through Vinod Chauhan via hawala channels. On the basis of the aforesaid allegations, the prosecution seeks to portray A-10, as a facilitator forming a link between the alleged policy-level decisions, media entities, and the purported financial flows said to constitute the criminal conspiracy.

Analysis

(ii) Presence of A-10 in the meeting at Gauri Apartment

769. It is not in dispute that during the period relevant to the alleged conspiracy relating to the formulation and implementation of the DEP-21/22, A-10 was working as the Sales and Marketing Head of India Ahead News Channel. His professional engagement, as borne out from the record, was thus confined to the media domain and did not, even remotely, place him within the policy-making or policy-implementing framework of the Excise Department.

770. The prosecution seeks to draw an adverse inference against A-10 primarily on the basis of his alleged presence in two

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meetings, one at Gauri Apartments and another at Hotel Taj Palace, New Delhi. However, the prosecution's own evidence materially weakens this assertion. PW-1, who admittedly attended the meeting at Gauri Apartments, has categorically stated that although A-10 was present, he remained silent throughout and did not participate in the discussion. PW-1 and PW-2, who were also present, have consistently deposed that the meeting was confined to seeking manpower assistance, as certain private parties intended to apply for multiple retail zones as already discussed in detail. A careful reading of their statements does not disclose any discussion pertaining to manipulation or tweaking of the Excise Policy, involvement of public servants, or payment of any alleged upfront money. From the statement of the prosecution's own witnesses, nothing incriminating emerges against A-10 beyond his mere presence, which, in law, cannot be elevated to culpable participation.

771. With regard to the alleged meeting at Hotel Taj Palace, the prosecution relies solely on the presence of A-10 alongside Vijay Nair. The witness (PW-101) who has spoken of an alleged demand of bribe has not attributed any role to A-10; the allegation, such as it is, is specifically directed against A-3. As already discussed in this order, even that allegation does not find consistent support from the prosecution witnesses themselves. In any event, mere presence at a meeting, without any material showing participation before or after

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the meeting or any conduct in furtherance of the alleged discussion, cannot be construed as aiding or abetting a conspiracy. This assumes added significance in light of the admitted position that A-10 neither directly nor indirectly applied for any wholesaler (L-1) or retail (L-7Z) licence under the DEP-21/22, and that IANPL likewise did not submit any application for such licences in respect of the works undertaken by him.

772. The investigating agency has next attempted to link A-10 by referring to payments of ₹1 crore and ₹70 lakhs made by M/S Indospirits to APPL and IANPL The allegation has already been discussed. However, even at the cost of repetition it is being discussed to give it completion. The prosecution does not dispute that India Ahead was engaged in media-related activities, nor does it dispute that M/S Indospirits had proposed to engage the channel for advertisements. The transaction is sought to be characterised as sham merely because the amount was paid in advance and the advertisements were allegedly not carried out in the same manner as with other clients. This contention does not withstand scrutiny. The concept paper (D-89) itself reflects that M/S Indospirits was exploring engagement with India Ahead. Advance payment, by itself, is a common commercial practice and cannot, without anything further, render a transaction fictitious or colourable. Significantly, the aggregate amount of ₹1.7 crores is wholly inconsequential when

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contrasted with the prosecution's own allegation of illegal gratification running into ₹90–100 crores, thereby further eroding the suggested inference. If routine banking transactions are to be treated as incriminating circumstances, every commercial counter-party of an accused company would stand exposed to prosecution, a proposition plainly inconsistent with settled principles of criminal law. It also bears reiteration that even the person alleged to be controlling IANPL has been found to have no substantive role in the alleged conspiracy.

773. The prosecution has further sought to implicate A-10 in the alleged movement of cash through angadias for the Goa elections, resting primarily on Call Detail Records showing telephonic contact with A-15. It is an admitted position that A-15 was working with India Ahead News Channel. Mere telephonic connectivity between two persons working in the same organisation, without any supporting material, cannot establish participation in the movement of funds. This Court also cannot ignore the inconsistency in the investigative approach: where CDRs exist, they are pressed into service; where they do not, the prosecution conveniently suggests communication through web-based calls. In the absence of any transcript, content, such material, in isolation, is incapable of sustaining any incriminating inference. Serious criminal liability cannot be founded on conjecture drawn from bare call records.

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774. Finally, finding nothing of substance, the investigating agency has sought to raise suspicion on the ground that A-10 was drawing a salary of ₹5 lakhs per month, which is portrayed as exorbitant and therefore suggestive of involvement in the alleged conspiracy. This Court finds no basis for such an assumption. A-10 was admittedly holding a senior position as President/Sales and Marketing Head of a news channel, and no material has been placed on record to demonstrate that the said remuneration was either abnormal for such a role or indicative of any illicit consideration.

(emphasis supplied)

775. Taken individually or cumulatively, the circumstances relied upon by the prosecution, namely, the admitted silence of A-10 in the meeting at Gauri Apartments, the absence of any role attributed to him in the alleged demand of bribe, the commercial advance paid by M/S Indospirits to IANPL, the bare CDRs reflecting contact with a co-employee without any transcript or corroboration, and the allegation of a *"high"* salary, do not give rise to grave suspicion. On the contrary, they reveal that in the absence of any incriminating material, the prosecution has attempted to stitch together innocuous and disconnected facts in a bid to implicate A-10, an approach that falls short of the threshold required even at the stage of framing of charge.

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Allegation against A-11

776. It is the case of the prosecution that A-11, Butchibabu Gorantla, was an active participant in the alleged conspiracy and a key member of the so-called *"South Group",* being a close associate and Chartered Accountant of A-17 (K. Kavitha). It is alleged that, during the period when the draft of the GoM Report was under finalisation in March 2021, he made frequent visits to Delhi. The prosecution further alleges that certain provisions relating to the Excise Policy were found stored in his mobile phone and that such provisions were thereafter incorporated verbatim in the GoM Report on the Excise Policy dated 22.03.2021. It is also alleged that A-11 was present at a meeting held at Gauri Apartments, Delhi, on 21.05.2021, being the date on which the policy was approved through circulation during the peak Covid period, and that he was also present at another meeting held on 19.06.2021 at ITC Kohinoor, Hyderabad.

777. According to the prosecution, during the period August, September 2021, A-11 received an amount of ₹1 crore from A-4 (Abhishek Boinpally) through A-6 (Mootha Gautam), and that his chats reflect the involvement of A-3 (Vijay Nair), A-23 (Sarath Reddy), A-17 (K. Kavitha), Magunta Reddy and others. It is also alleged that he acted as a mediator in facilitating payment of ₹10 crores to A-17 (K. Kavitha) by Raghav Magunta. The prosecution further alleges that A-11 was instrumental in a transaction involving

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₹14 crores received by A-17 (K. Kavitha), wherein he allegedly handled the documentation and directed Madhu Gorla (PW-235) of the Aurobindo Group to inflate the value of the land and reflect it at least at ₹28 crores on paper, while also suggesting other changes. It is alleged that the said transaction was a sham arrangement and was devised as a mode for recoupment of money.

(i) Alleged Presence of A-11 in the Meeting at Gauri Apartment

778. The allegation against A-11 is that he participated in a meeting at Gauri Apartment, Delhi on 21.05.2021, where the prosecution claims that the alleged conspiracy began to take shape. To establish his presence, the prosecution relies upon the statements of the approver PW-20, PW-1 and PW-2.

779. A careful and conjoint reading of these statements does not, however, support the prosecution narrative. What emerges from the statements of PW-20, PW-1 and PW-2 is only that A-4, A-5 and A-11 expressed an inclination to participate in the retail liquor business in Delhi by seeking to obtain 5 to 10 retail zones. Such an expression of intent was neither impermissible nor unlawful. Participation in the retail segment under a policy that expressly permitted private entry cannot, by itself, be construed as a conspiratorial act.

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780. It is significant that PW-1 and PW-2, who are cited by the prosecution as material witnesses, have themselves been projected as innocent participants. No criminality has been attributed to them, despite their admitted presence at the said meeting and despite the fact that they admittedly provided staff for operating retail zones of A-4. If discussions relating to participation in retail zones or the provision of manpower were to be viewed as incriminating, the same standard would necessarily apply to PW-1 and PW-2. The selective attribution of culpability to the accused, while absolving similarly placed participants, materially weakens the prosecution case.

781. The record further discloses a prior and close proximity between A-1 and A-2 and the approver PW-20, who was admittedly referred to by them by the nickname *"Mango"*. This admitted familiarity and association, when contrasted with the attempt to portray PW-1 and PW-2 as neutral or uninvolved actors, renders the prosecution narrative internally inconsistent.

782. None of the witnesses state that, at the alleged meeting, there was any discussion regarding payment of bribes, adoption of illegal means, manipulation of policy, or involvement of any public servant. The statements consistently indicate that the concern of the so-called South Group was limited to operational aspects of entering a new market. Being new to the Delhi retail liquor business, they sought assistance from persons already engaged in the trade.

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783. This is reflected in the statements themselves, which record that PW-1 and PW-2 could assist by providing experienced staff to operate retail vends. Such discussions are squarely within the realm of ordinary commercial arrangements.

784. The discussion regarding taking 5 to 10 retail zones also cannot be characterised as criminal in nature. The allotment of retail zones was through a public auction process, the outcome of which was uncertain and dependent upon competitive bidding. There could be no assurance or certainty of securing any particular number of zones at the stage of a preliminary discussion. Notably, the prosecution has not alleged any manipulation, rigging or undue influence in the auction or allotment process. In the absence of such allegations, a mere intention to participate in the auction does not give rise to any inference of illegality.

785. Even at the cost of repetition, it is stated that PW-1 has clearly stated that A-11 was making enquiries regarding the financial aspects of the Delhi liquor market. PW-1 states: *"Sh Butchi Babu was mainly asking the questions about financial aspects of the business that how is the Delhi market , how we can make profits ."*

786. When this deposition is read alongside the prosecution narrative, an evident inconsistency emerges. The record indicates that even in May 2021, A-11 was seeking to understand the profitability, operational contours and commercial feasibility of the Delhi market.

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At the same time, the prosecution asserts that by March 2021 a part of the alleged *"upfront money"* had already been delivered pursuant to a concluded arrangement.

787. If that version were to be accepted, the alleged demand and its partial execution would have already stood crystallised. However, the material attributed to A-11 reflects that basic commercial issues, such as staffing of retail operations, setting up of shops and overall market viability, were still being explored. Such conduct does not align with the existence of a settled and pre-determined criminal conspiracy.

788. The later portion of the statement of PW-2 further undermines the prosecution case. PW-2, who was admittedly associated with ADS Spirits and was engaged in the manufacture of the *"Royal Green"* brand of whisky, does not speak of any continuing interaction with the South Group. On the contrary, he states that his relations with A-4 became strained in February 2022 after the staff provided by him were removed, and that thereafter A-4 stopped responding to his calls. This disclosure indicates a breakdown of commercial association rather than the continuation of any concerted or conspiratorial arrangement.

789. Crucially, there is a complete absence of material to suggest that, at the alleged meeting of 21.05.2021, there was any discussion concerning formulation or implementation of the Excise

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Policy, fixation of wholesale margins, grant of licences, or any other regulatory or policy matter. Even if the prosecution material is taken at its highest, it does not disclose any deliberation touching upon abuse of official position or involvement of public servants.

790. Viewed in this backdrop, the allegation that the meeting at Gauri Apartment marked the genesis of a criminal conspiracy involving A-11 is wholly unsupported by the record. The material relied upon by the prosecution reflects, at best, preliminary and lawful commercial discussions, devoid of any illegal objective or meeting of minds to commit an offence.

(ii) Alleged Bank Transfers from A-6 to A-11 Projected as a Money Trail Originating from M/S Indospirit

Analysis

791. The prosecution alleges that amounts of ₹25 lakhs on 02.08.2021, ₹20 lakhs on 07.08.2021, ₹15 lakhs on 24.08.2021 and ₹40 lakhs on 27.09.2021 were transferred from the bank account of A-6 to the account of A-11. On this basis, an attempt is made to project a money trail allegedly emanating from M/S Indospirit, with a further insinuation that A-7 was instrumental in facilitating or routing such funds.

792. This Court is unable to discern how the said transactions, by themselves, can be connected to the alleged

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conspiracy. As per the prosecution's own narrative, the alleged upfront amount paid by the so-called South Group was to be recouped from future earnings generated under the DEP-21/22 through an enhanced wholesale margin of 12%, out of which 6% was allegedly meant for recoupment. Such recoupment, even on the prosecution's case, was contingent upon the commencement of retail operations. Admittedly, retail vends commenced only on 17.11.2021.

793. The transactions relied upon by the prosecution pertain to the period August and September 2021, a stage prior to the commencement of retail operations and prior to any possibility of revenue generation under the new policy framework. These transfers, therefore, cannot be reconciled with the prosecution's own theory of recoupment. Rather than lending support to the allegation of conspiracy, the timing of these transactions negates the very foundation of the prosecution case on this aspect.

(emphasis supplied)

794. The material placed on record, at best, indicates that certain financial transactions took place between accused persons. However, the investigating agency cannot be permitted to ascribe a conspiratorial colour to every such transaction in the absence of a demonstrable nexus with the alleged object or mechanism of the conspiracy. Criminal liability cannot be inferred merely on the basis

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of financial dealings, unless such dealings are shown to be intrinsically connected with the alleged offence.

(emphasis supplied)

795. Viewed in this light, the transactions relied upon by the prosecution do not advance its case in any manner. On the contrary, they undermine the prosecution's own theory and fail to disclose any prima facie linkage with the alleged conspiracy. Even at the threshold stage, the material falls short of raising a grave suspicion so as to justify the framing of charge on this count.

(iii) Allegation of A-11 Acting as a Conduit for A-17 and Alleged Coordination of ₹10 Crore Delivery (March 2021)

796. The prosecution alleges that A-11 acted as a conduit for A-17 and coordinated the delivery of a sum of ₹10 crores in March 2021. It is alleged that A-11 approached the approver (PW-226) to persuade him to arrange an upfront payment of ₹50 crores for entry into the Delhi liquor business.

797. In the main charge-sheet, the prosecution projected the meeting at Gauri Apartment as the starting point of the alleged conspiracy. Subsequently, upon the introduction of PW-226 as an approver, the alleged genesis of the conspiracy has been shifted to a period prior thereto. This change is not merely temporal but strikes at the consistency of the prosecution narrative, as the alleged

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commencement of the conspiracy is altered without any contemporaneous documentary or independent evidentiary basis.

798. As per the revised version, PW-226 allegedly agreed to make an upfront payment of ₹25 crores, out of which a part payment of ₹10 crores is stated to have been made in March 2021 at the instance of A-11. The prosecution claims that the said amount was delivered through PW-227, who was working as a personal assistant to PW-226.

799. It is a settled principle that the statement of an approver cannot be relied upon unless it is independently corroborated on material particulars. Corroboration must come from a source which is reliable and independent; repetition of the approver's version by persons who are themselves participants in the alleged transaction does not satisfy this requirement.

800. The prosecution seeks to rely upon PW-225, PW-226 and PW-227. PW-225 is admittedly projected as a participant in the alleged conspiracy, though examined as a prosecution witness. His statement, therefore, is to be treated as that of an accomplice-like witness. In law, an accomplice cannot corroborate the statement of an approver; both require independent corroboration from a source untainted by participation or interest.

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801. This leaves PW-227 as the only witness sought to be projected as an independent link. However, his statement does not withstand scrutiny. PW-227 claims to have delivered the alleged amount but is unable to state the mobile number which was allegedly provided by A-11 for the purpose of delivery. He does not disclose the name of the person to whom the amount was delivered, nor does he specify the exact flat or premises where the delivery allegedly took place. This omission is significant, particularly when PW-227 states that he has been residing in Chennai for about 25 years and had allegedly visited the place of delivery on two occasions.

802. Further, while the investigating agency has relied upon tower-location data to suggest meetings at places such as the Oberoi Hotel and Gauri Apartment no corresponding tower-location or digital evidence has been produced to support the allegation of delivery of ₹10 crores. The selective reliance on technical evidence, coupled with the absence of similar material for the alleged delivery, leaves a clear evidentiary void.

803. It is also relevant that PW-227 has been associated with the Magunta family for over two decades. His long-standing association renders his statement derivative in nature and closely aligned with the version of the approver. His statement does not corroborate the approver on any material particular such as the identity

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of the recipient, the exact place of delivery, or any contemporaneous record evidencing movement or handling of such a substantial sum.

804. On a cumulative assessment, the allegation that A-11 coordinated the delivery of ₹10 crores rests solely on the uncorroborated statement of the approver, sought to be supported by accomplice-like witnesses and a derivative account lacking material particulars. In the absence of independent corroboration, whether documentary, digital or circumstantial, the prosecution version remains speculative and insufficient to sustain the allegation even at the stage of framing of charge. Reliance is again placed upon the judgments of Hon'ble Supreme Court in **K. Hashim (supra)**, **Somasundaram (supra), Laxmipat Choraria (supra) and A.R. Antulay (supra).**

(iv) Contextual Evaluation of WhatsApp Chats Dated 06.03.2021 and 20.03.2021- Policy Manipulation on the threshold of Grave Suspicion

805. The prosecution has relied upon these chats to contend that on 06.03.2021 there was a plan for *"tweaking"* the excise policy and that the chat dated 20.03.2021 contains material which later found place in the final draft report of the GoM. In order to evaluate this contention, the entire content must be seen contextually; no isolated expression can be read divorced from the surrounding material.

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806. The record reflects that these were not exchanges with any co-accused, public servant or third party. The content was transmitted from one device of A-11 to another device operated by him. In substance, therefore, the material is in the nature of personal notes or self-compiled drafts and not inter se communications evidencing any agreement or concert.

807. On a plain reading, the document titled *"Excise policy Notes"* appears exploratory and descriptive rather than prescriptive in nature.

808. The note begins with a general observation:

> *"At present, Delhi government is trying to reduce the Government intervention, minimize the bureaucracy and leaving the market to market forces."*

809. This statement does not contain any directive or proposal; it merely records a perception regarding the policy direction. The subsequent line continues in the same vein: *"It means, the consumers will be benefited, government revenue will be increased. Also its works in favor of the mid and premium segment brands and not the cheap liquor."*

810. These are broad commercial inferences drawn from an anticipated shift toward market-oriented regulation. They read as commentary on the perceived economic impact of a policy framework, not as suggestions for altering it.

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811. It is relevant to note that at the material time the Ravi Dhawan Report regarding restructuring and privatization of retail zones was already in the public domain. Stakeholder meetings and deliberations were underway, and media reports had extensively covered the proposed shift towards privatization and reduction of governmental control. Seen in that backdrop, the observations recorded in the note cannot be treated as exclusive, confidential or internally sourced inputs. They reflect matters already circulating in public discourse. The note then expressly acknowledges uncertainty:

> *"In the given scenario, as a liquor manufacturer, distributor or end shop owner the exact business opportunity is not known."*

812. This sentence demonstrates that the author did not claim knowledge of any finalised structure or assured commercial benefit. On the contrary, it records lack of clarity regarding business opportunity across the spectrum, manufacturer, distributor or retailer.

813. The next line states:

> *"In this regard, we have appointed a consultant who will give us the policy tweaking and give us the ins and outs of the policy required and presentable business opportunity."*

814. When read in context with the preceding sentence, the expression *"policy tweaking"* cannot be isolated. The sentence, taken as a whole, reflects an attempt to understand the *"ins and outs of the policy"* and to evaluate a *"presentable business opportunity."* It conveys commercial due diligence rather than authorship or alteration

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of governmental policy. The reference to appointing a consultant indicates that professional assistance was sought to understand the contours of the policy and its business implications.

815. The note further records:

> *"From that view we are required make 2/3 delhi visits, detailed discussions, freezing the policy etc., then we know the final business opportunity"*

816. This indicates that even at that stage, the policy was not considered final from a commercial standpoint and required clarification through visits and discussions. The language suggests assessment and understanding, not intervention.

817. The concluding portion reads:

> *"However, sure short business opportunity is logistics management and security label printing and other security contracts. We are required to know the eligibilities norms"*

818. This identifies ancillary commercial possibilities, logistics management, security label printing, security contracts, and the need to understand eligibility norms. These are operational and compliance-oriented aspects. They do not relate to drafting clauses, determining margins, restructuring statutory provisions, or influencing governmental authorities.

819. Another message sent shortly thereafter on 06.03.2021 seeks information regarding the number of shops, value and volume, number of cases category-wise, present fees and rate structure, shops

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per 10,000 population, liquor fees and duties, violation penalties, timings of bars, number of dry days, profits to end shop owners for the last three years, slab variations, brand launching formalities, and comparable data for Uttar Pradesh, Haryana and Punjab. The tenor of this message demonstrates a request for basic regulatory and statistical particulars. It indicates absence of familiarity with the framework and an attempt to gather data before assessing feasibility. The reference to *"2/3 Delhi visits"* and *"detailed discussions"* likewise suggests that further understanding was required before arriving at any conclusion regarding business opportunity.

820. Taken together, the chats dated 06.03.2021 show: (i) lack of clarity regarding the business opportunity; (ii) appointment of a consultant for understanding the policy framework; (iii) collection of regulatory and statistical data of the adjoining States like Utter Pradesh, Haryana and Punjab and (iv) preliminary assessment of logistics and compliance issues. There is nothing in these messages to indicate participation in drafting, shaping, or influencing governmental policy. No communication is addressed to any public authority. No financial clause, margin structure, or revenue design is discussed.

821. The chats dated 20.03.2021 are similarly in the form of internal notes. One of them is captioned:

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"DIRECTOR WHOLE SALE OPERATIONS (new designation) REPORTING TO THE COMMITTEE HE WILL DO MONITOR and AUTHORITY TO

1 Unfair trade practices, operations and supervision of wholesale dealers

2 Demand supply patterns, normalization of supplies, adhoc powers to regulate and monitor supplies

3 Regular the spurious and unadulterated suppliers/shop owners/distributors licenses approvals, cancellation

4 Stocks distribution modalities

5 Wholesale dealers Advertisements (its not allowed).

6 Surprise checks on shops/distributor go downs.

7 CG camera implementation at all go downs.

8 No compounding of offence unless approved by the director and then committee

9 He is a nominated person from your group who is 100% trustworthy and your person…

10 On top of director, there is a committee belongs exclusively responsible only to you"

822. This extract outlines supervisory and regulatory functions of a proposed *"Director Whole Sale Operations."* It does not advert to enhancement of wholesale margin, financial structuring, or any revenue design.

823. The second message dated 20.03.2021, under the heading *"Elite stores,"* reads: *"Elite stores*

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1. no experience required, (other than turnover earned from operating an alcohol vend/store) (can we place a possible partner here who is eligible)

2. can be done in a JV with a partner (who has operated or operates a premium store)

3. elite stores can not be operated by a distributor or a manufacturer

4. minimum turnover for a store owner should be Rs 50 crores (from one store ? per year or the last … 3 years ?)

5. no pending cases should be there in any Delhi state ? / across India"

824. The language is exploratory and interrogative. The figure mentioned is *"Rs 50 crores,"* framed as a query. There is no reference to enhancement of wholesale margin from 5% to 12%, nor to any ₹500 crore turnover stipulation for five years, which the prosecution treats as central to the alleged generation of recoupment funds. There is no discussion of any financial mechanism or structured benefit.

825. Further, as per the prosecution's own case, a photocopy of the GoM Report had already been handed over which form the basis of second draft GoM report dated 19.03.2021 and ultimately became the final report. If that chronology is accepted, the report stood prepared prior to the chats dated 20.03.2021. The sequence of events does not substantiate the contention that these notes had any bearing on the recommendations of the GoM, nor does it establish that there existed any occasion or necessity for A-11 to record such notes when the GoM's recommendations had already been finalized.

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826. When read in their entirety and in light of the fact that the Ravi Dhawan Report and stakeholder deliberations were already in the public domain, the chats dated 06.03.2021 and 20.03.2021 reflect exploratory commercial inquiry and internal assessment of regulatory structure and eligibility norms. They do not disclose participation in governmental deliberations, drafting of policy clauses, or any nexus with the financial components forming the basis of the prosecution case. Even if taken at face value, the material does not disclose the essential ingredients of the alleged conspiracy and does not give rise to grave suspicion so as to warrant framing of charge.

(v) Examination of the Alleged Land Transaction between A-17 and A-23 and the Attributed Role of A-11

827. So far as A-11 is concerned, the allegation regarding the land transaction is founded essentially on certain communications and his position as Chartered Accountant of A-17 (Ms. K. Kavitha).

828. The record indicates that a draft Agreement of Sale reflecting a consideration of ₹14 crores was forwarded by A-11 to officials of the Aurobindo Group. Thereafter, the Agreement of Sale dated 12.07.2021 reflected a total consideration of ₹28 crores, with ₹14 crores payable as advance. Reliance is placed by the prosecution on a WhatsApp message attributed to A-11 stating, inter alia, *"Keep at least 28 on paper"* and suggesting removal of the interest clause. On

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that basis, it is alleged that A-11 played a role in enhancing the consideration and structuring the agreement.

829. Thus, qua A-11, the case rests primarily on: (i) forwarding of the draft agreement, (ii) the WhatsApp communication regarding enhancement of value and deletion of the interest clause, and (iii) subsequent messages said to indicate urgency of payment and sharing of allotment-related information. These circumstances are relied upon to suggest facilitation of the impugned transaction.

830. Admittedly, the land transaction pertains to July 2021. The prosecution seeks to portray it as a mode of payment of alleged *"upfront money"* or as recoupment thereof. However, even in the conspiracy narrative set out in the charge-sheets, there is no specific allegation that recoupment was to be effected through retailers. There is no case that recovery of any alleged upfront payment was to be made by means of retail transactions.

831. It is also not alleged that A-23 was associated with any wholesaler or that he had paid any upfront amount necessitating recoupment. The material shows that A-23 participated in bidding for retail zones. There is no allegation that he was involved in wholesale operations or that he stood to gain through wholesale margins. In the absence of such linkage, the premise that a land transaction involving him constituted recoupment lacks foundation.

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832. Though it has been generally alleged that A-23 was favoured in securing five retail zones, no material has been produced to demonstrate manipulation of the auction process. The allotment of retail zones was conducted through an auction mechanism. The investigating agency has neither alleged that the bidding process was compromised nor that eligibility conditions were violated. In the absence of any material indicating interference or procedural breach, the allegation of favouritism remains unsubstantiated.

833. It is further an admitted position that the land transaction was never fully executed and that the advance amount was returned. There was no completed transfer of property. No enduring financial benefit arising from the transaction has been demonstrated. In such circumstances, characterising the transaction as a conduit for recoupment requires clear material establishing such nexus, which is not forthcoming.

834. A plain reading of the record shows that the agreement to sell the land relates to a period when the alleged recoupment is not even stated to have commenced. On the face of it, the land transaction does not bear any connection with the Excise Policy. Even if the WhatsApp chats are accepted in the manner suggested by the prosecution, they do not demonstrate any nexus with the policy; in the absence of such linkage, they lose relevance.

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835. At this stage, the discussion is confined only to the role attributed to A-11. The allegation, insofar as it concerns A-17, shall be considered separately and in appropriate detail.

836. A plain reading of the record shows that the agreement to sell the land relates to a period when the alleged recoupment is not even stated to have commenced. On the face of it, the land transaction does not bear any connection with the Excise Policy. Even if the WhatsApp chats are accepted in the manner suggested by the prosecution, they do not demonstrate any nexus with the policy; in the absence of such linkage, they lose relevance.

837. At this stage, the discussion is confined only to the role attributed to A-11. The allegation, insofar as it concerns A-17, shall be considered separately and in appropriate detail.

838. Criminal liability is personal and cannot be inferred solely on the basis of association or contemporaneous commercial dealings. In the absence of statutory provision, vicarious liability has no application in criminal law. Guilt by association is not recognised. Suspicion, cannot take the place of legally admissible material prima facie showing participation in an unlawful agreement.

839. Viewed thus, the attempt to link the unexecuted land transaction with the broader conspiracy narrative rests on inference

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rather than demonstrable material connecting A-11 or A-23 with any criminal design.

Allegation against A-17

840. According to the prosecution, A-17, Ms. K. Kavitha, occupied a central and facilitative role in the alleged criminal conspiracy relating to the formulation and implementation of the Delhi DEP-21/22. It is alleged that she acted in concert with members of the so-called *"South Group"* and with accused Vijay Nair (A-3), and that she functioned as a political and strategic conduit for select private liquor interests seeking favourable policy outcomes. The charge-sheet proceeds primarily on approver statements to assert that she was associated with the raising, conveyance and facilitation of an alleged demand for an *"up-front"* payment of about ₹100 crore in consideration of incorporation of favourable provisions in the policy and advantageous outcomes in the tendering and licensing process. She is further alleged to have had an indirect beneficial interest in the L-1 wholesaler, M/S Indospirits, through associates or proxies, and to have received proceeds of illegal gratification camouflaged as legitimate transactions, including, a purported land transaction of ₹14 crore, and a CSR donation routed through an NGO stated to be connected to her.

841. In furtherance of this alleged arrangement, accused A-11 (Butchibabu Gorantla) is stated to have acted as a field-level

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coordinator on behalf of the *"South Group"*, having approached the Magunta side to arrange funds and facilitated alleged cash deliveries through intermediaries or employees, including purported deliveries at Chennai, which are treated by the prosecution as part-payment of the alleged illegal gratification. The Magunta side, namely Magunta Sreenivasulu Reddy (PW-225) and his son approver Raghav Magunta (PW-226), are alleged to have had business interests under the new excise regime, including participation in the L-1 wholesaler M/S Indo Spirits and acquisition of retail zones, and to have been approached with a demand for payment in lieu of favourable policy and business outcomes; Raghav Magunta, having been granted pardon under Section 306 of Cr.P.C., is relied upon as an approver to support the allegation of demand, arrangement and partial payment through intermediaries. The prosecution further alleges that persons connected with Aurobindo-linked entities (A-23) benefited from allotment of retail zones under the policy and formed part of the alleged financial arrangements, asserting that funds originating from such entities were routed to A-17 through transactions projected as lawful, including the aforesaid land deal and other payments, that such entities had advance access to information regarding successful bidders, and that even after withdrawal of the policy, outstanding dues payable to the L-1 wholesaler were permitted to remain unpaid as a continuing benefit within the alleged conspiracy.

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Analysis

(i) Land Deal — Alleged Recoupment of "Upfront Money" by A-17

842. The record indicates that a draft Agreement of Sale dated 12.07.2021 (D-302), reflecting a consideration of ₹14 crores, was forwarded by A-11 to officials of the Aurobindo Group. Thereafter, the Agreement of Sale dated 12.07.2021 reflected a total consideration of ₹28 crores, with ₹14 crores payable as advance. The prosecution relies upon this land transaction to contend that it constituted payment of the alleged *"upfront money"* or recoupment thereof. In the Third Supplementary Charge-sheet (para 16.40), it is asserted that *"the investigation has further revealed that the accused Ms. K. Kavitha has also recouped the payment of the upfront money by way of obtaining Rs 14 crores from the company of Sh. Sarath Chandra Reddy in guise of land deal."*

843. When this allegation is examined in the backdrop of the prosecution's own conspiracy narrative, it does not withstand scrutiny. The charge-sheets consistently project recoupment as a mechanism linked to profits generated at the wholesale level under the L-1 regime. The prosecution theory is that a portion of the enhanced margin was to be recovered through profit-sharing arrangements within wholesale entities, including by induction of members of the so-called South Group into the partnership structure of wholesalers such as M/S Indospirit. There is neither allegation nor material to show that A-23

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had any role, share, control, or association, directly or indirectly, with the wholesale layer, whether in M/S Indospirit or in BSPL.

844. It is separately alleged that A-23 was controlling five retail zones. Even assuming that allegation at face value, the prosecution does not contend that the allotment of those retail zones was vitiated by corruption, manipulation, or deviation from policy. None of the charge-sheets assail the grant of retail zones as having been secured in violation of rules or regulations. More significantly, there is no specific allegation in the conspiracy narrative that recoupment was to be effected through retailers before they receive credit notes. The prosecution case does not suggest that recovery of any alleged upfront payment was to be made through retail transactions.

845. The inconsistency becomes evident when the allegation is tested against commercial logic. If recoupment was to arise from wholesale profits, and A-23 had no demonstrated stake in the wholesale regime, there was no occasion for him to make any payment by way of recoupment. The record does not disclose how or why A-23, who is not shown to have derived any share in the wholesale layer, would part with ₹14 crores for such purpose.

846. The timeline further weakens the prosecution theory. The retail vends, as per the prosecution's own case, commenced operations only in or around November 2021. If recoupment is to be

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linked to earnings under the policy, the question arises as to how an agreement to sale allegedly made in July 2021, prior to the operational phase of the retail regime, could represent recovery of profits not yet earned. On the prosecution's own showing, the alleged recoupment precedes the very accrual of any profit stream from which it could have been sourced.

847. Even otherwise, reliance is placed upon the statements of GTSL Prasad (PW-234) and Madhu Gorla (PW-235). A perusal of those statements merely establishes the existence of the agreement to sell; they do not attribute any criminal intent or unlawful design to the accused. The documentary record further shows that M/S Mahira Ventures issued a legal notice dated 30.05.2022 (D-303) seeking refund in respect of the land transaction, pointing out non-fulfilment of obligations by the seller. Pursuant thereto, the advance consideration was returned to the company. The transaction did not culminate in sale of the land, and admittedly the payment stood refunded.

848. The date of the transaction, coupled with its complete misalignment with the pleaded mechanism of conspiracy, indicates that it was an independent contractual arrangement having no nexus with the Excise Policy. On a cumulative consideration of the material, the attempt to treat the land transaction as a vehicle for recoupment is not borne out by the prosecution's own pleaded mechanism, nor by the

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timeline, nor by the documentary record. The allegation is internally inconsistent and, when tested against the prosecution narrative itself, does not support the inference sought to be drawn.

(ii) Corporate Social Responsibility (hereinafter referred to as *"CSR"*) Contribution Allegation

849. The prosecution alleges that the CSR contribution of ₹80 lakhs made by Aurobindo Pharma Limited to Telangana Jagruthi in June 2021 was not a genuine CSR expenditure, but a concealed mode of transferring illegal gratification to A-17. Though reflected as a CSR payment and routed through banking channels, it is suggested that the contribution formed part of the broader conspiracy alleged under the Delhi DEP-21/22.

850. On scrutiny of the material relied upon, this allegation does not disclose the basic ingredients necessary to sustain such an inference. The prosecution has not shown that the payment was anything other than a CSR contribution duly recorded in the statutory books of the donor company and in the financial records of the recipient organisation. The amount was transferred through regular banking channels and is supported by disclosed financial documentation. There is no allegation of cash movement, concealment, falsification of accounts, or diversion for personal benefit.

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851. It is of significance that the payment was made in June 2021. The prosecution's own theory of conspiracy, as examined in detail earlier, projects the alleged *"recoupment"* mechanism as a subsequent arrangement, to operate after implementation of the policy and upon accrual of profits. The attempt to characterise a June 2021 CSR contribution as recoupment is inconsistent with that framework. A payment made prior to the stage at which recoupment is stated to have arisen cannot, in the absence of supporting material, be read into that theory.

852. Further, no contemporaneous material has been placed on record to indicate that the contribution was made in consideration of any public act, licence, policy decision, or official favour. There is no allegation of demand, solicitation, or acceptance of an undue advantage by A-17 in relation to any public duty. The inference sought to be drawn rests merely on an assumed association between the donor company and liquor business interests, and between the recipient NGO and the accused, without establishing any legally sustainable nexus with the exercise of official influence.

853. Even with respect to A-23, the material does not advance the prosecution case. He is not shown to have any connection with a manufacturer or wholesaler. The only allegation is that he was holding five retail zones. The allotment of those retail zones is admittedly not under challenge. In the absence of any demonstrated illegality in such

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allotment, or any material linking the holding of retail zones with the CSR contribution in question, the suggested connection remains speculative.

854. On the material presently available, the CSR contribution appears as a disclosed and accounted transaction, unsupported by evidence of demand, quid pro quo, concealment, or misuse. The allegation rests on inference rather than demonstrable linkage to any corrupt act. Even at the stage of charge, it does not give rise to grave suspicion against A-17. To treat a lawful and documented CSR contribution as criminal, without any material of corrupt intent or nexus with a public function, would amount to attributing culpability by presumption, which is impermissible in law.

(iii) Allegation of Indirect Equity Interest of A-17 through A-5 in M/S Indospirit

855. It is alleged by the prosecution that A-17 held an indirect equity interest of 32.5% in M/S Indo Spirits through accused A-5 (Arun R. Pillai), projected as her proxy, while M/S Indospirit Distribution Ltd. of accused A-7 (Sameer Mahendru) held 35%. The prosecution alleges that A-5 invested Rs. 3.40 crores in M/S Indospirit and that, out of this amount, Rs. 2.90 crores was sourced from associates of A-17. In support of this allegation, reliance is placed upon the statements recorded under Section 161 of CrPC of PW-242

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to PW-245. The individual transactions reflected in the record are as follows:

(a) Kiran Kumar Luvanath (PW-243) advanced Rs. 50 lakhs on 16.11.2021, which was returned on 18.03.2022. He stated that A-5 was his client and that the loan was given on the basis of personal understanding. Although he acknowledged knowing A-17 in a general sense, he has nowhere stated that the loan was advanced at her instance.

(b) Kalpesh Jain (PW-242) advanced Rs. 40 lakhs on 16.11.2021, repaid on 19.03.2022. He categorically stated that he did not know A-17. The amount was provided at the request of Kiran Kumar Luvanath and not on any directions of A-17.

(c) Shashank Boyenpalli (PW-244) advanced Rs. 1 crore on 17.11.2021, returned on 25.08.2022. He had known A-5 since 2019–2020 and granted the loan at A-5's request. He expressly stated that he did not know A-17 and did not attribute the transaction to her.

(d) V. Srinivas Rao (PW-245) advanced Rs. 1 crore on 16.11.2021, which was returned on 10.12.2021. The prosecution relies heavily upon one sentence in his statement wherein he states that he granted the loan on the directions of A-17. However, the relevant portion must be read in its entirety. PW-245 states: *"… on 15.11.2021, along with Sh. Arun Pillai, I met at Hotel 36 situated at Road No. 36*

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in Hyderabad. There, Sh. Arun Pillai requested me to lend Rs. 1 crore as a short-term loan for around 15 days for business purposes. He assured me that he would return the money within 15 days. I gave him the money on the directions of Ms. K. Kavitha, MLC. I transferred an amount of Rs. 1 crore to Sh. Arun Pillai through RTGS from the account of M/S Nirmitee Developers."

856. The statement itself records that the request for the loan originated from A-5. The transfer was effected through RTGS from the bank account of a firm to the bank account of A-5. It was not a cash transaction. The amount was returned in full within a short period. It is not the prosecution's case that the amount remained unpaid or that it was diverted.

857. As regards the remaining three lenders, their statements do not indicate that the loans were advanced at the instance of A-17. PW-242 does not know A-17. PW-244 has denied knowing her. PW-243's acquaintance is limited to a professional interaction relating to interior work. Such limited familiarity cannot reasonably be elevated to an inference that substantial loans were advanced at her behest, particularly when the witnesses themselves deny any such direction.

858. There is also no material placed on record to show that the alleged investment of Rs. 2.90 crores was repaid by A-5 out of funds supplied by A-17. No corresponding financial trail from A-17 to

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A-5 has been demonstrated. Their statements, in fact, run contrary to what has been projected by the investigating agency.

859. The position would have been materially different had the prosecution been able to demonstrate that A-17 herself provided cash or funds which were then routed through intermediary accounts and ultimately credited to A-5, or that the investment made by A-5 resulted in a demonstrable return or benefit to A-17. However, that is not the prosecution case. Even if the prosecution version is accepted at its highest, that A-17 facilitated introductions or that persons acquainted with her extended financial assistance to A-5, such facts, by themselves, do not give rise to a legally sustainable inference that A-5 was acting as a proxy or benami for A-17.

(emphasis supplied)

860. Criminal liability cannot be founded on conjectural extensions of association or acquaintance. The concept of *"proxy"* or *"acting on behalf of"* in criminal law requires clear and cogent evidence of control, direction, or beneficial ownership. Mere facilitation, recommendation, or acquaintance-based financial support does not satisfy this threshold. To accept the prosecution's inference would be to collapse the distinction between civil association and criminal culpability, and to import into criminal jurisprudence a form of vicarious liability which is impermissible in the absence of a specific statutory provision.

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861. If such an inference were to be accepted, it would lead to the untenable proposition that any person receiving funds from third parties, merely because of their acquaintance or proximity to another accused, could be treated as a proxy for that accused, thereby rendering both liable. Such a standard would stretch criminal culpability beyond its permissible limits and would effectively criminalise ordinary financial transactions unsupported by evidence of control, benefit, or mens rea. Criminal law does not recognise guilt by association, nor does it permit the attribution of liability on the basis of speculative linkage or assumed influence.

(emphasis supplied)

862. On a cumulative consideration of these circumstances, the material reflects short-term loans routed through banking channels, extended on the basis of personal familiarity and repaid within defined timelines. The record does not disclose any coordinated funding mechanism attributable to A-17. In the absence of evidence demonstrating direction, control or financial contribution by A-17 towards the alleged investment, no inference of conspiracy can be drawn against A-5 or any other accused on this basis. The allegation appears to be an attempt to connect A-17 with A-5, which does not cross the threshold required even at the stage of charge.

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(iv) Allegation of Undue Benefit Through the Alleged Sham Land Deal between A-17 and A-23, in Turn Getting Favour in the Auction of Retail Zones under DEP-21/22

863. The prosecution alleges that A-23 conferred an undue benefit upon A-17 through a purportedly sham land transaction, which is sought to be projected as the quid pro quo for the award of retail liquor zones under the Delhi DEP-21/22. Though the land transaction has been adverted to in the preceding paragraphs, it is necessary to address this allegation in its correct legal perspective.

864. It is an admitted position on record that the alleged land deal was never consummated. The agreement to sell did not culminate in any transfer of title, and the amount paid pursuant to the agreement was admittedly returned. Notwithstanding this, the prosecution has advanced a speculative theory that A-17 entered into the agreement only to temporarily park funds in her account, allegedly to utilise the same during the intervening period before returning it. Crucially, the prosecution has failed to disclose any material whatsoever demonstrating how the said amount was utilised, for what purpose, or in what manner it was connected to the alleged conspiracy relating to the Excise Policy. In the absence of any such foundational material, the hypothesis remains conjectural.

865. The law is well settled that an investigating agency cannot supply motives, invent purposes, or attribute criminal intent in

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the absence of cogent evidence. A simple commercial transaction, namely, execution of an agreement to sell, payment of advance, failure of the transaction, and refund of the amount, has been sought to be converted into incriminatory material by superimposing an unsubstantiated allegation that the property was agreed to be sold at a price higher than the prevailing market value. This Court finds it difficult to discern how such an allegation, even if assumed to be correct, establishes any nexus between A-17 and the formulation or implementation of the Excise Policy.

866. The entire allegation thus rests on the hypothesis that companies linked with A-23 were conferred undue benefit in the award of retail zones, and that such benefit constituted the quid pro quo for the alleged land transaction. This foundational assumption, however, collapses upon scrutiny. The award of retail zones was conducted through a public auction process, supervised by the TEC, and in accordance with the prescribed statutory and procedural framework. Significantly, the investigating agency does not dispute the legality, regularity, or procedural compliance of the tender process itself. Once the validity of the auction and the award of zones stands undisputed, the prosecution's theory that the allotment of retail zones constituted an illegal favour or undue benefit is rendered inherently unsustainable.

(emphasis supplied)

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867. The maxim *sublato fundamento cadit opus,* when the foundation is removed, the superstructure falls, aptly applies. Where the very foundation of the prosecution's case, namely the existence of an illegal or irregular award of retail zones, is absent, the superstructure built upon it, alleging quid pro quo through a sham land deal, cannot survive. The law does not permit an inference of corruption or conspiracy to be drawn merely because two events are temporally proximate, in the absence of proof of causative linkage or unlawful benefit.

868. Equally instructive is the principle *post hoc ergo propter hoc*, which cautions against the fallacy of assuming that because one event follows another, the former must be the cause of the latter. The prosecution's case, in the present context, rests precisely on this impermissible reasoning, seeking to infer quid pro quo solely on the basis of sequence, without establishing nexus, intent, or benefit.

869. Viewed thus, the allegation that A-17 received undue benefit through a sham land deal in consideration of favour shown to A-23 in the award of retail zones is bereft of evidentiary foundation. In the absence of any material that the land transaction was a facade, that the funds were utilised for any unlawful purpose, or that the tender process was manipulated to confer benefit, the allegation remains speculative and legally unsustainable. At the stage of consideration of charge, such conjecture cannot substitute for prima facie material

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establishing the essential ingredients of quid pro quo, conspiracy, or abuse of official position.

Outcome of Evaluation

870. On a plain reading of the record, the very inclusion of A-17 and A-18 in the present case rests substantially upon the statements of PW-225 and his son, PW-226, who was later tendered pardon. It is essentially through these two witnesses that A-17 and A-18 are brought within the alleged conspiracy. It is equally significant that, on the basis of these statements, the timeline of the alleged conspiracy itself shifts. The prosecution initially projected the conspiracy as having taken shape around April/May. After reliance upon PW-225 and PW-226, the starting point is pushed back to March. The chronology, therefore, stands altered primarily on the strength of accomplice-like statement.

871. The only material relied upon to indicate any linkage between A-17 and A-18 is the statement of PW-225. According to him, when he met A-18, he was told that A-17 would call him. Beyond this assertion, no circumstance, meeting, communication, or overt act is attributed to them jointly. Notwithstanding the absence of any further material, they have been portrayed as principal actors operating through intermediaries.

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872. In this admitted background certain features deserve notice:

1. It is not the case of the prosecution that A-17 or A-18 attended any meeting in Delhi.

2. It is not alleged that they attended any meeting in Hyderabad.

3.A-17 never met A-8 during the relevant period.

4. A-17 and A-18 never met each other during the period of the alleged conspiracy.

5. A-17 did not come to Delhi during the relevant period.

873. The prosecution version further states that PW-225 visited the residence of A-17 in March, where she allegedly stated that she had to arrange ₹100 crores as *"upfront money."* The manner in which this allegation is presented suggests that, even before the alleged June meeting of co-conspirators, the entire arrangement stood settled. This would mean that one person had already anticipated a collective decision that was yet to take place. Instead of strengthening the case, the introduction of PW-225 and PW-226 renders the theory internally strained.

(emphasis supplied)

874. The link sought to be drawn with A-23 is through a land transaction in July, described as sham and treated as recoupment. Yet the prosecution's own theory suggests that recoupment was to begin only after implementation of the policy and generation of profits. Profits would arise only upon commencement of sales, and credit

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notes could follow only thereafter. Credit notes cannot exist in the absence of sales. The timeline emerging from the record does not sit comfortably with the alleged mode of recoupment.

875. To add weight to the narrative, it is alleged that ₹10 crores were received from PW-226. The attempt to corroborate this through PW-227 remains unsatisfactory, as he does not specify the exact date, place, or time of delivery. The link, therefore, remains incomplete.

876. It is further alleged that ₹10 crores and ₹15 crores were received at Chennai, not Hyderabad, and thereafter routed to Delhi and then to Goa. This gives rise to a simple and natural question: if the destination was Goa, and the prosecution itself relies upon Angadia/hawala channels, why was the amount not sent directly to Goa? Instead, several intermediaries are introduced. PA Ashok Kaushik is then shown as collecting the amount from approver PW-20. This again raises a basic query, why was the amount not delivered directly to him or directly to A-21? Why was it passed through multiple hands, thereby increasing risk and complexity?

877. Most importantly, how did the amount reach Delhi in the first place? On this aspect, the prosecution narrative remains silent.

878. At this stage, while the Court may grant the prosecution reasonable latitude, it cannot dispense with a meaningful application

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of mind. Even if the material is taken at face value, a straightforward reading raises doubts as to whether the investigation has traced a coherent chain, or whether isolated events have been placed together to create the appearance of a larger design.

879. The case is projected against a background of sensational and striking features:

1. A 36-page printout allegedly becoming the GoM report.

2. Allegations of ₹90–100 crores in illegal gratification.

3. Involvement of public servants at high levels, businessmen, and media persons.

4. Allegations of bribe-taking by government officials.

5. An alleged connection with Goa elections.

6. Multiple participants turning approvers and giving successive statements.

880. Viewed casually, such elements may create an impression of a sweeping and well-organised conspiracy. The narrative appears structured. The scale of the alleged amounts and the range of persons involved can lend it an air of inevitability.

881. But criminal law does not proceed on impression. It proceeds on admissible material. On closer examination, the apparent coherence rests largely on statements of witnesses who stand on similar footing. One accomplice-like witness is shown to support another. The approver's version is said to be strengthened by a witness

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whose own role, as per the prosecution, is not free from suspicion. This is not independent corroboration; it is mutual reinforcement.

882. The settled rule of prudence is that an accomplice may be examined, but his statement requires independent corroboration on material particulars. One tainted statement cannot lend legitimacy to another equally tainted statement. When PW-225, PW-226 and others forming part of the same alleged chain are relied upon to support each other, the Court must look for something outside that circle, documentary proof, financial trail, or electronic record, standing independently. If such independent material is absent, the narrative does not appear internally consistent and remains legally fragile.

883. Even when each statement is assumed to be true, the structure does not appear intact when taken together. The fragility becomes more pronounced when each link is examined separately, date, place, mode of transfer, route of movement, whereupon the gaps become visible. Essential facts are left to inference. The route of money is unclear. The timing does not align. The alleged recoupment precedes the very profits from which it is said to arise.

884. This is one of those cases where, unless the material is tested on the touchstone of admissibility and relevance, the story may appear complete. The magnitude of the allegations can overshadow the weaknesses. Yet, when examined in the light of established

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principles governing accomplice statement and corroboration, the apparent superstructure begins to lose stability.

885. Courts cannot permit the force of a narrative to replace the discipline of evidence. However serious the allegations may appear, they must withstand scrutiny under settled legal principles. When so examined, what is projected as a single, coherent design may, in truth, consist of a chain of assertions resting upon one another, without firm and independent support. The maxim *sublato fundamento cadit opus* aptly applies, when the foundation is removed, the structure falls. Like a pack of cards, once the base is unsettled, the entire arrangement begins to give way. That is precisely what has occurred here. Once the primary reliance on mutually supporting accomplice-like statements is tested, the apparent coherence dissolves, and the larger structure cannot sustain itself.

(emphasis supplied)

Allegation against A-19

886. As per the prosecution case set out in the Fourth Supplementary Charge-sheet, A-19, Durgesh Pathak, is alleged to have played a role in the utilisation of the purported proceeds of crime arising out of the alleged Excise Policy conspiracy for political purposes, specifically in connection with the Goa Assembly Elections, 2022. The prosecution projects A-19 as the AAP Prabhari/In-charge

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for Goa during the relevant period and alleges that, by virtue of this position, he exercised supervisory and coordinating control over the party's election campaign in the State.

887. It is alleged that, during the course of the Goa election campaign, A-19 approached candidates and party workers and assured them that their election expenses would be borne by the party. According to the prosecution, such assurances indicated the existence of a centrally managed funding mechanism for the campaign. The prosecution relies upon statements of certain AAP candidates and witnesses to allege that election-related expenditure in Goa was incurred substantially in cash and that candidates were informed that they need not independently arrange campaign funds.

888. The prosecution further alleges that cash amounts transferred to Goa through hawala/angadiya channels, described as part of the alleged upfront money generated from the Excise Policy conspiracy, were utilised for meeting election-related expenses under the supervision of the Goa campaign leadership. In this context, it is alleged that A-19 utilised such funds through accused Chanpreet Singh Rayat (A-16), who is stated to have handled and disbursed cash payments to various vendors, assembly managers, booth in-charges, volunteers and other personnel engaged in the Goa election campaign. The prosecution thus attributes to A-19 a coordinating role in the utilisation of the alleged cash funds through on-ground operatives.

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889. In support of the broader conspiracy narrative, the prosecution also relies on circumstances relating to meetings and logistics in Delhi. It is alleged that on 21.05.2021 certain accused persons, described as members of the so-called *"South Group",* met accused Vijay Nair (A-3) and others at Gauri Apartment near Claridges, Delhi, and that this meeting was connected with the alleged conspiracy relating to the Excise Policy. In this backdrop, it is specifically alleged that the said guest house/apartment had been booked by Sh. Bibhav Kumar, Personal Secretary to accused Arvind Kejriwal (A-18), for A-19. The prosecution cites this circumstance as part of the chain suggesting coordination among political functionaries and other accused during the relevant period.

890. The prosecution further alleges that the transfer of funds to Goa was undertaken with the object of financing the AAP's Goa election campaign and that A-19, as Goa Prabhari, played a role in the political utilisation of such funds. According to the prosecution, the alleged cash disbursements formed part of a larger plan to deploy the proceeds of the alleged Excise Policy conspiracy for electoral expenditure, and A-19 is alleged to have been one of the key political coordinators in Goa in this regard.

891. It is the prosecution's stated position that the acts attributed to A-19 are not connected with the discharge of any official duty, and on that basis it is asserted that no sanction under Section 19

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of the PC Act is required in respect of A-19. The prosecution alleges that, on the aforesaid factual matrix, A-19 was a participant in the criminal conspiracy relating to the utilisation of alleged proceeds of crime for political purposes, in furtherance of the overall conspiracy alleged in the Fourth Supplementary Charge-sheet.

Analysis

892. The prosecution seeks to attribute criminal liability to A-19 primarily on the premise that, being the Goa Prabhari of the party during the Goa Assembly Elections, 2022, he approached prospective candidates and assured them that the party would bear election-related expenses. Even if this allegation is assumed to be correct in its entirety, such conduct, by itself, does not disclose any violation of the election law framework.

893. Under the scheme of the Representation of the People Act, 1951, election expenditure incurred by or authorised by a political party is legally distinct from the personal election expenditure of a candidate. Section 77(1) of the Representation Act, 1951 (hereinafter referred to as *"R.P. Act, 1951"*) mandates that a candidate shall maintain a correct account of expenditure *"incurred or authorised by him"* in connection with his election. The Explanation to Section 77, read with settled election law jurisprudence, clarifies that expenditure incurred by a recognised political party or by persons other than the

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candidate, without the candidate's authorisation, does not form part of the candidate's election expenditure. Political parties are statutorily permitted to campaign for, support, and financially assist their candidates, subject to disclosure norms applicable to the party. There is no prohibition in law against a political party funding or meeting the campaign expenses of its candidates, and such funding, per se, does not attract any penal consequence under the Act.

(emphasis supplied)

894. Further, the regulatory framework under Section 29C of the R.P. Act, 1951, expressly contemplates party funding and mandates disclosure of contributions received by political parties beyond the prescribed threshold. The alleged assurance by A-19 that the party would bear election expenses, even if taken at face value, therefore falls squarely within the domain of permissible political conduct and cannot, without more, be elevated to criminality.

895. Significantly, the prosecution has not placed any material to show that A-19 either provided cash, arranged cash, directed cash payments, or acted as a conduit for the alleged cash utilised in the elections. The statements relied upon by the prosecution, including those of PW-273 and PW-274, do not attribute any act of cash handling, transfer, receipt or disbursement to A-19, nor do they suggest that any cash was provided by him or on his behalf. The mere assertion that party volunteers or campaign functionaries incurred

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expenditure in cash does not, in the absence of linkage evidence, establish any role of A-19 in the alleged funding trail.

896. The Court further notes that political supervision of elections by a party functionary is a routine and legitimate organisational activity. The role of a '*Prabhari'* is inherently supervisory and coordinative in nature. Such supervision cannot be criminalised merely because the prosecution alleges that some party workers or volunteers may have utilised cash during the campaign. To fasten criminal liability on A-19 on a theory of vicarious responsibility, the prosecution was required to demonstrate that the alleged recipients or handlers of cash were acting as his agents, co-conspirators or at his behest. No such material has been placed on record.

897. It is also an admitted position emerging from the charge-sheet itself that A-19 was not present at any of the meetings projected as the genesis or crystallisation of the alleged conspiracy, including the meetings at Gauri Apartment, ITC Kohinoor, Taj Hotel or Hotel Oberoi. His name does not figure in the confessional or approver statements of PW-20 or PW-226, nor in the statements of any angadia, hawala operator or witness connected with the alleged cash movement. None of the witnesses who speak of alleged transfer of funds from Delhi to Goa have named or implicated A-19 in any capacity.

898. The sole foundation of the prosecution case against A-19 thus rests on the assertion that he was supervising the Goa elections

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while alleged cash was received and spent by party volunteers. Such a premise, in the absence of evidence of knowledge, participation, control or linkage with the alleged proceeds of crime, is legally insufficient to sustain a criminal charge. Criminal conspiracy cannot be inferred from organisational hierarchy or political position alone; it must be founded on material demonstrating a meeting of minds and conscious participation, which is conspicuously absent in the present case.

899. In the absence of any allegation or evidence that A-19 was instrumental in the generation, transfer, receipt or utilisation of the alleged cash, or that he was connected in any manner with the formulation or implementation of the Excise Policy, there is no material whatsoever to justify his arraignment. The attempt to rope him in on the basis of a broad and impermissible theory of vicarious liability does not meet the threshold required even at the stage of framing of charge.

900. The Court expresses its serious disapproval of the manner in which the investigating agency has sought to implicate A-19 without placing on record any material indicative of his knowledge, participation or involvement in the alleged conspiracy or the alleged proceeds of crime. Criminal liability cannot be fastened on the basis of political position, organisational role or supervisory responsibility. To compel an individual to face criminal prosecution on the strength

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of conjecture and association is wholly impermissible and runs contrary to settled principles of criminal jurisprudence, where the process itself cannot be permitted to operate as punishment.

(emphasis supplied)

901. The investigating agency is expected to act with fairness and restraint, particularly in cases carrying grave consequences for personal liberty, reputation and dignity. The present prosecution reflects an unwarranted expansion of the net in the absence of evidence and a failure to distinguish between legitimate political activity and criminal conduct. Continuation of proceedings founded on such tenuous premises would amount to an abuse of process and result in a miscarriage of justice.

Allegation Against A-20

902. It is the prosecution case that A-20 Amit Arora, owner and controller of M/S Buddy Beverages Pvt. Ltd., emerged during investigation as a participant in the alleged conspiracy relating to the Delhi DEP-21/22. It is alleged that he acted in concert with accused Vijay Nair (A-3) and approver Dinesh Arora to extract an illegal commission of 6% out of the 12% wholesale margin introduced under the DEP-21/22.

903. According to the prosecution, M/S Mahadev Liquors, a wholesale licensee in Delhi, was targeted for payment of the said

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commission. Upon refusal, A-20 is alleged to have adopted coercive measures, including misuse of alleged influence with Punjab Excise authorities, resulting in abrupt closure of liquor manufacturing units linked to Ms. Jasdeep Kaur Chadha (PW-298) in Punjab. It is alleged that such actions were intended to pressurise M/S Mahadev Liquors to comply with the demand.

904. The prosecution further alleges that the distilleries of Ms. Jasdeep Kaur Chadha (PW-298) were closed without prior notice, followed by issuance of a show-cause notice, and that she was thereafter directed to donate ₹51 lakhs to the Chief Minister's Relief Fund, Punjab, after which orders for reopening were issued. It is alleged that continued pressure led to surrender of the wholesale licence of M/S Mahadev Liquors on 25.05.2022.

905. It is also alleged that approver Dinesh Arora (PW-20) confirmed that closure of the Punjab units was orchestrated to exert pressure for payment of the 6% commission, and that after Mahadev Liquors exited the wholesale business, alternative entities, M/S Dewan Spirits and M/S Shiv Associates, were identified to whom the business could be shifted on terms involving sharing of the commission. The prosecution relies upon statements of certain witnesses, including Sh. Sanjit Padhi and Sh. Prabhjot Singh, to allege that A-20 Amit Arora was a participant in these arrangements and thereby played a role in

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extraction of illegal commission and coercive restructuring of wholesale arrangements under the DEP-21/22.

Analysis

906. At the very threshold, it requires emphasis that A-20 Amit Arora is admittedly not shown to have been present in any of the meetings which, according to the prosecution itself, are projected as forming the fulcrum or crucible of the alleged conspiracy, namely, the meetings at Gauri Apartments, ITC Kohinoor, Hyderabad, Taj Hotel, or Hotel Oberoi. His absence from each and every meeting said to have shaped, advanced, or operationalised the alleged conspiracy is borne out from the record and, significantly, stands undisputed by the prosecution.

907. This absence assumes added significance when viewed in the backdrop of the prosecution's own foundational narrative. In the principal charge-sheet, the prosecution proceeds on an entirely different and self-contained axis. The alleged conspiracy is premised on the assertion that major manufacturers, particularly M/S PRI and Diageo, together commanded nearly 65% of the market share, and that the DEP-21/22 was allegedly manipulated to enable control over distribution so as to facilitate recoupment of so-called *"upfront money."* Within this core narrative, M/S Mahadev Liquors, an L-1 wholesaler, does not figure at all. There is not even a remote allegation connecting A-20 Amit Arora either with the alleged payment or with

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the alleged recoupment of upfront money. The subsequent introduction of an altogether new strand involving M/S Mahadev Liquors, without any demonstrable linkage to the original conspiracy framework, thus constitutes an unexplained and material departure from the prosecution's own central theory.

908. It is also an undisputed position that no role whatsoever is attributed to A-20 at the stage of formulation of the DEP-21/22. He is neither alleged to be a manufacturer, nor a wholesaler, nor a retailer, except in relation to the Airport zone through Buddy Retails Pvt. Ltd., under the DEP-21/22. There is no allegation that he influenced, approached, or interacted with any public servant in connection with policy drafting, Cabinet approval, movement of files, or implementation. His name is conspicuously absent from any contemporaneous policy-level discussion, official correspondence, or decision-making record pertaining to the Excise Department. This absence from the policy domain materially weakens any attempt to attribute to him a role in a policy-centric criminal conspiracy.

909. Equally telling is the complete absence of any allegation, direct or indirect, linking A-20 with the delivery, movement, receipt, or handling of any alleged cash, whether at Chennai, Delhi, or Goa. None of the witnesses examined in relation to hawala transactions, angadiya operations, or alleged cash movement have named A-20. He does not find mention in the statements of the

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approvers, including PW-20 or PW-226, in relation to the alleged cash trail or election expenditure. The prosecution material, therefore, discloses no financial or transactional nexus between A-20 and the alleged proceeds of crime.

910. When the focus shifts to M/S Mahadev Liquors, the record itself discloses multiple and mutually inconsistent versions regarding its control and operation. The first version emanates from approver PW-20 Dines Arora, who stated that PW-298 (Ms. Jasdeep Kaur Chadha) was the owner of M/S Mahadev Liquors, *"Mahadev Liquor ke owner hai Madam Chaddha",* as reflected in the confession statement recorded under Section 164 of Cr.P.C.. A second version, again attributed to approver PW-20, suggests that PW-298 was running the business though Sunny Marwah (PW-279), as disclosed in the statement recorded under Section 161 of Cr.P.C. dated 21.09.2022. A third version, disclosed by PW-298 and PW-279 themselves, is that they were merely family friends and that PW-279 was the owner of M/S Mahadev Liquors.

911. The investigating agency has consciously chosen to adopt and rely upon the third version. The reason for this selective reliance becomes apparent on closer scrutiny. Acceptance of either the first or the second version would inevitably lead to the inference that a manufacturer was effectively running a distributor/wholesaler, a situation expressly prohibited under the NEP-20/21, particularly when

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PW-298 admittedly controlled liquor manufacturing entities such as Tite Beverages, Medusa Beverages, Adie Browson Breweries, and AB Grains Spirits Pvt. Ltd. This circumstance also bears directly on the manner in which Sunny Marwah (PW-279) was initially named as an accused in the FIR. It is pertinent that while A-7 and A-9, being wholesalers, have been charge-sheeted, neither Sunny Marwah nor Jasdeep Kaur Chadha has been charge-sheeted. The third version, therefore, aligns conveniently with the investigative narrative by insulating both Jasdeep Kaur Chadha (PW-298) and Sunny Marwah (PW-279) from the rigours of a prohibited relationship, while simultaneously rendering their statements amenable to prosecutorial use.

912. Proceeding on this constructed premise, the investigating agency seeks to link the alleged closure of distilleries belonging to PW-298 with an alleged attempt to exert pressure upon PW-279, projected as one of the owners of M/S Mahadev Liquors. The prosecution further suggests that, being a family friend and having suffered inconvenience and financial loss, PW-298 influenced the decision of M/S Mahadev Liquors to surrender its L-1 licence. This theory of *"arm-twisting,"* however, does not withstand scrutiny. Such a hypothesis might have carried some plausibility had there been an allegation that PW-279 extended financial assistance to PW-298 to offset her alleged losses. Instead, the prosecution's own case is that

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M/S Mahadev Liquors was running a successful L-1 wholesale business with nearly 20% market share in Delhi under the DEP-21/22 and was projected as the third-largest wholesaler in the city. PW-279 is stated to have been dealing with as many as 14 brands. Against this commercial backdrop, the suggestion that a profitable wholesaler would voluntarily surrender its licence merely out of sympathy or familial concern, without any corresponding financial or commercial benefit, appears inherently implausible. In this backdrop, if the theory is to be accepted as giving rise to grave suspicion, the prosecution was required to show, at least prima facie, that there existed a relationship of such a nature that PW-298 was compelled or constrained to surrender the licence. No such material is forthcoming on record. On the contrary, another view equally arises from the circumstances, that the surrender was occasioned by the withdrawal of the Excise Policy itself. Unless this alternative is ruled out on the basis of cogent material, the prosecution's suggestion cannot be said to cross the threshold beyond mere conjecture.

913. The prosecution case then suffers a decisive and fatal jolt with the admitted denial of sanction under Section 17-A of the PC Act qua the Punjab Excise officials. The relevant extract of the order dated 30.08.2023 of the competent authority, marked as D-368, is reproduced for ready reference:

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"…..GOVERNMENT OF PUNJAB DEPARTMENT OF PERSONNEL (I.A.S. BRANCH)

ORDER

The Central Bureau of Investigation, New Delhi, vide Memo No. 5365/RC 53(A)/2022/CBI/ACB/DLI dated 30.08.2023, had sent a proposal regarding seeking of permission u/s 17A of PC Act. 1988 (as amended in 2018) against Sh. KAP Sinha, IAS (Punjab-1992), the then Financial Commissioner, Excise & Taxation, Punjab.

2. On receipt of the aforesaid proposal, the Financial Commissioner (Taxation) was requested vide Memo No. SV-3/134 dated 08.09.2023 to give factual position in this case. The Financial Commissioner (Taxation) has communicated the factual report, vide his Memo No. 2056 dated 09.10.2023.

3. Based on the above factual position placed before the Competent Authority, it has come out that the Department of Excise and Taxation conducts routine inspections of the distilleries and bottling plants from time to time. So, as a part of routine practice, 15 inspections of various manufacturing units were conducted in the months of April and May, 2022. It becomes clear that the units of M/S A.B Grains Spirits Pvt. Ltd. and M/S Adie Broswon Pvt. Ltd. were not specifically targeted for inspections. It has been reported that similar inspections had been conducted in the past also. As a result of such routine inspections in four units during the month of Nov. 2021, action as per law was initiated which resulted into imposing of penalty of Rs. 80 Lakhs in the month of April 2022 in three cases each, and in one case, the license of the unit remained suspended for fifteen days.

4. It clearly shows that the Department has been handling such cases as per the provisions of the Punjab Excise Act and the Excise Rules. Similarly, in cases of M/S A.B Grains Spirits Pvt. Ltd. and M/S Adie Broswon Pvt. Ltd., action as per law was taken by the competent officer and nothing malafide can be attributed to the competent officer

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when he has duly discharged his duties. It is also pertinent to mention here that neither any appeal nor any revision was filed by the aforesaid liquor companies before Shri KAP Sinha, IAS, the then Financial Commissioner, Excise & Taxation, Punjab.

5. Further, linking the surrender of L-1 (wholesale) license by M/S Mahadev Liquors in New Delhi with the departmental action, taken as per law, against a manufacturing unit in Punjab run by Smt. Jasdeep Kaur Chadha is not tenable. As per the factual record as received from the CBI, M/S Mahadev Liquors is a proprietorship concern with Sh. Sunny Marwaha as an authorized signatory. There is nothing on record which establishes any linkage of M/S Mahadev Liquors with Smt. Jasdeep Kaur Chadha or her concerns in Punjab.

6. From the sequence of events and the facts placed on record, the Competent Authority is of the view that giving a colour of arm twisting to the routine legal departmental action taken against M/S A.B Grains Spirits Pvt. Ltd. and M/S Adie Broswon Pvt. Ltd., is unjustified. Moreover, the CBI itself has mentioned categorically in the proforma that they do not have any information in respect of any bribe giver.

7…..The ingredients of Section 477A of IPC has been gone through in light of the documents provided by CBI in the proposal but no falsification of accounts done by Shri K A P Sinha, IAS has been mentioned anywhere in the documents provided by CBI, nor it has been found on perusal of the record of the Department of Excise, Punjab related to Shri K A P Sinha IAS. Thus, no case of section 477A of IPC is made out against Shri K A P Sinha, IAS.

8…… In regard to an allegation under the aforesaid Section of IPC, it is mentioned that as per the copy of FIR provided by CBI, M/S Mahadev Liquors is a proprietorship concern having Sh. Sunny Marwaha as an authorized signatory. No fact of linkage of M/S Mahadev Liquors with Smt. Jasdeep Kaur Chadha has been mentioned in the copy of FIR nor in any other supporting documents provided by CBI. Further, it has been found that no other document or evidence has been provided

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by CBI, which can possibly attract any ingredient invoking section 120B of IPC against Sh. K A P Sinha IAS.

9….. In regard to an allegation under this Section of PC Act, it is mentioned that in para 8 of the proposal received from CBI seeking permission u/s 17A PC Act, 1988 against Shri K A P Sinha, IAS, it is stated that there is no information available with CBI in respect of any bribe giver. Moreover, as per the fact finding report of Excise Department, neither any document/evidence has been found from record of the Excise Department nor from the proposal received from CBI which indicates any deliberate disruption in the functioning of the afore-mentioned Units, as claimed by CBI. Further, as already mentioned above, no fact of linkage of M/S Mahadev Liquors with Smt. Jasdeep Kaur Chadha has been mentioned in the copy of FIR nor in any other supporting documents provided by CBI. Thus, no ingredient of Section 7 of PC Act, 1988 (as amended in 2018) has been made out in the case of Shri K A P Sinha, IAS.

10. *Further, at the time, Shri K A P Sinha, IAS was posted as Additional Chief Secretary Finance with Additional Charge of Additional Chief Secretary Excise and Taxation. Holding these two positions simultaneously, his most important assignment at that time was to prepare the maiden budget of the new Government which was to be presented on 27th June, 2022. His additional charge as Additional Chief Secretary Excise and Taxation was only for a short duration of 2 months 18 days.*

11. *In view of the aforegoing, Competent Authority, after having examined in depth the request of the CBI coupled with the facts as stated above, is of a categorical view that no case whatsoever is made out to grant any sort of "permission" under Section 17A of the Prevention of Corruption Act, 1988 against Shri K A P Sinha, IAS, the then Financial Commissioner, Excise & Taxation, Punjab who has carried out his official functions/duties in a bona-fide manner. The provisions of Section 17A were also examined, which postulate*

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a mandatory pre-requisite of previous approval before conduct of any inquiry, enquiry or investigation against a Public Servant. No case for such previous approval is made out. Though, the CBI has sought for 'permission', but the statute distinctly uses the expression 'previous approval'. Obviously, 'previous approval' would be of a distinct nature than a mere 'permission'. The Competent Authority is satisfied that the accusations set forth in the CBI's proposal does not disclose a prima facie criminality in the acts of the concerned public servant. As stated above, not even a prima facie case is made out for according any previous approval under Section 17A (supra) and accordingly, the request of the CBI is hereby declined.

12. *This issues with the approval of the Competent Authority.*

Chief Secretary to the Government of Punjab
Endst. No. 2/7/2023-IAS(1)/1044
Dated, Chandigarh 28.11.2023…".

914. The alleged closure of distilleries belonging to PW-298 in Punjab constitutes the very foundation of the prosecution's theory of coercion and misuse of official machinery. However, the competent authority declined sanction to investigate the said officials, and the denial order (D-368) admittedly remains unchallenged by the CBI. This omission has serious legal consequences. The Supreme Court in case titled as **Karnataka Emta Coal Mines Ltd. V. CBI, 2024 SCC OnLine SC 2250,** has consistently held that where sanction to prosecute a public servant is refused and such refusal is not assailed, allegations of conspiracy involving private persons premised upon the conduct of such public servants cannot be sustained. Non-challenge to

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the denial order, therefore, amounts to acceptance of the findings of the competent authority by the investigating agency itself. The relevant extract is reproduced below for ready reference:

(emphasis supplied)

> *"….12. <u>DENIAL OF SANCTIONS BY THE SANCTIONING AUTHORITIES AND THE EFFECT ON THE APPELLANTS</u>*
>
> *12.1. It is relevant to note that the very same Audit objections taken by the CAG and relied upon by the respondent-CBI to allege conspiracy and loss to the public exchequer were thoroughly examined and found to be meritless by two separate set of Sanctioning Authorities. When it came to Mr. R. Nagaraja, the then Director (Finance) of KPCL and the nominee Director on the Board of KECML, the Sanctioning Authority, i.e., the Board of KPCL went through several documents during its deliberations including the MoU between the KECML and GCWL forwarded by the respondent-CBI for seeking sanction to prosecute him. The reasons for holding that the CAG Report was without any factual basis, were elaborately dealt with as below:*
>
> *12.2. It is apparent from the above that after Sanctioning Authority had scrutinized all the relevant documents and the depositions as many as of 67 witnesses submitted by the respondent-CBI, it observed that there was no evidence to show that any rejects generated by washing of coal had been sold or that KPCL had suffered an unlawful loss during the process. As a result, the Board of KPCL refused to grant sanction to the respondent-CBI to prosecute Mr. R. Nagaraja for offences alleged to have been committed by him. It is noteworthy that no appeal has been filed by the respondent - CBI against denial of sanction.*
>
> *12.3. Similarly, the request made by the respondent-CBI for seeking sanction to prosecute Mr. Yogendra Tripathi, the then*

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Managing Director, KPCL was denied by the Competent Authority in the Central Government in terms of the letter dated 16th April, 2018, issued by the DoPT. The order passed by the DoPT shows that it took note of the Report of the respondent-CBI, the records submitted by it along with the Report, the advice received from the CVC and then summarized the allegations levelled by the respondent-CBI that formed the basis of its proposal to seek sanction for prosecution of the aforesaid officer. The said request was finally rejected by the Competent Authority in the Central Government with the following observations:

12.4. The aforesaid order reveals that before applying its mind, the Competent Authority in the Central Government had sought comments from the Government of Karnataka who had stated that there was no material produced by the respondent-CBI in support of the allegation that Mr. Yogendra Tripathi had conspired to illegally dispose off the coal rejects or with malafide intention deferred the agenda in the 41st Board Meeting of the KPCL. The Competent Authority separately sent the said proposal submitted by the respondent-CBI to the CVC for seeking advice. After examining all the records sent by the investigation agency including the evidence submitted by it, the Office of the Prime Minister who is the Competent Authority in the Central Government, approved the proposal to decline the sanction for prosecuting Mr. Yogendra Tripathi. Yet again, no appeal has been filed by the respondent - CBI before the court questioning the said decision.

12.5. The respondent-CBI having accepted the decision taken by the Sanctioning Authority in respect of Mr. R. Nagaraja and the decision of the Competent Authority in the Central Government in respect of Mr. Yogendra Tripathi, both senior most serving officers of KPCL and were also on the Board of KECML, cannot be permitted to argue that these were merely administrative decisions and even if permission to prosecute the aforesaid officers has been denied, the Department can still proceed against the appellants based on the very same set of material/documents/evidence etc. that have been minutely

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scrutinized by different authorities at the highest level and they have independently arrived at an identical conclusion of refusing to grant sanction to prosecute senior functionaries of KPCL. Simply because the said senior functionaries of KPCL were public servants, does not detract from the fact that the respondent-CBI has described them as co-accused in a criminal conspiracy and attributed similar motives to them as the appellants herein. If they have been let off the hook and the respondent-CBI has not challenged the said decisions, there is no reason to proceed against the appellants herein on the basis of the very same set of facts and material gathered during the course of investigation.

(d) The Competent Authority in the Central Government who was approached by the respondent-CBI for sanction to prosecute Mr. Yogendra Tripathi, the then Managing Director of KPCL sought comments from two separate sources. The Government of Karnataka opined that no criminal intent could be attributed to the said officer. A proposal was also sent to the CVC for their advice. The CVC too recommended that the sanction for prosecuting the officer ought to be declined. The Competent Authority in the Central Government after going through the entire documents and material including the evidence submitted by the respondent-CBI and the opinions solicited, declined sanction for the prosecution of the aforesaid officer.

(e) The respondent-CBI did not approach the Court to challenge the aforesaid decisions. Having accepted the decision taken by the Sanctioning Authority/Competent Authority in the Central Government and dropping the charges against the seniormost functionaries in KPCL, who were also holding positions in the Board of KECML, there is no justification to press charges against the appellants herein whose role is similar to them…".

915. Even otherwise, the prosecution narrative is riddled with internal inconsistencies of such magnitude that they render the

allegations highly improbable. If M/S Mahadev Liquors had already surrendered its four brands, Radico Khaitan, Modi Distillery, Alcobrew, and Gemini Distillery, on 12 May, as allegedly demanded by A-20, the subsequent issuance of a show-cause notice calling PW-298 for personal hearing by the Punjab Excise Department becomes difficult to reconcile. Likewise, the allegation that Ms. Jasdeep Kaur Chadha was compelled to donate ₹51 lakhs to the Chief Minister's Relief Fund, Punjab, by cheque and not in cash to any person, after surrender of the licence, does not logically advance the prosecution case of quid pro quo or policy-linked conspiracy. There is no allegation that the said amount was routed as cash, diverted towards election expenditure, or otherwise connected with the alleged Excise Policy conspiracy.

916. Prima facie, therefore, no causal or transactional nexus emerges between the surrender of the wholesale licence in Delhi and the administrative action taken against distilleries in Punjab. This conclusion is further reinforced by the undisputed circumstance that the DEP-21/22 itself was due to expire in May, coinciding with the period of surrender. If A-20 and approver PW-20 were acting in furtherance of a criminal conspiracy, it remains unexplained what tangible benefit could have accrued from pressuring the surrender of an L-1 licence when the policy itself was nearing expiry and was ultimately extended only for two months by an order dated 20 May.

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The hypothesis of extracting substantial benefit for such a fleeting period does not comport with ordinary commercial or conspiratorial logic. Taken cumulatively, the surrounding circumstances do not support the prosecution case; rather, they dismantle it.

917. The attempt to braid these independent and jurisdictionally distinct strands into a single Excise Policy conspiracy is thus unsupported by cogent or reliable material. At the highest, the allegations, even if accepted at face value, may point towards a separate and independent grievance, but they do not disclose any material connection with either the formulation or the implementation of the DEP-21/22, nor with the alleged conspiracy underlying it.

918. It is also of relevance that upon surrender of the licence by M/S Mahadev Liquors, the business was allegedly taken over by M/S Dewan Spirits and M/S Shiv Associates. Despite being the immediate beneficiaries, neither entity has been implicated as an accused. PW-307 Surjan Reddy of M/S Dewan Spirits has disclosed that approver PW-20 approached him for a 50% partnership. Approver PW-20, in his confessional statement, stated: *"....On 30 aprail she surrendered the license and I got all her work I got L-1 license instead of Mahadev liquor. I got three companies and 1 company was given to M/S Deewan spirits…."*.

919. This disclosure squarely implicates Surjan Reddy and Prabhjot Singh of Shiv Associates. Considered cumulatively, these

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statements indicate that the witnesses, including Sunny Marwah and Jasdeep Kaur Chadha, are accomplice-like witnesses as showing proximity of manufacturer with wholesaler, whose statements require independent corroboration in material particulars. One accomplice cannot corroborate another, and uncorroborated statements of such nature cannot be acted upon even to raise a grave suspicion. Reliance is placed upon the judgments of Hon'ble Supreme Court in **K. Hashim (supra)**, **Somasundaram (supra), Laxmipat Choraria (supra) and A.R. Antulay (supra).**

920. In the complete absence of any role in policy formulation, absence from alleged conspiracy meetings, absence of involvement in any alleged cash movement, and absence of linkage to public-servant conduct or policy outcomes, this Court is constrained to hold that there is no prima facie material connecting A-20 Amit Arora with the alleged conspiracy relating to the DEP-21/22.

921. Viewed thus, the material placed on record falls manifestly short of the essential ingredients of criminal conspiracy. Conspiracy in law presupposes a prior meeting of minds, an agreement, tacit or express, to commit an illegal act or a legal act by illegal means, and conscious participation in furtherance of the common design. Mere suspicion, association, parallel circumstances, or post-facto allegations, howsoever serious, cannot be treated as a material of such agreement. In the present case, there is no material

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indicating that A-20 Amit Arora was a participant in any policy-shaping discussion, any conspiracy meeting, any agreement for extraction of alleged illegal gratification, or any act in furtherance thereof. In the absence of evidence disclosing knowledge, intent, or participation, the foundational requirement of conspiracy remains wholly unfulfilled. Subjecting A-20 to trial on such slender and conjectural material would amount to permitting the prosecution to proceed on surmise rather than substance, which the law does not countenance.

Allegations against A-23

922. The prosecution alleges that A-23, Sarath Chandra Reddy, was a member of the so-called *"South Group"* and was part of the larger conspiracy relating to the DEP-21/22. It is alleged that an amount of ₹14 crores was obtained from him in the guise of a land transaction and that a further sum of ₹80 lakhs was paid by him to an NGO associated with A-17 (Ms. K. Kavitha). According to the prosecution, these payments were linked to the alleged conspiracy. It is further alleged that, though the policy capped allocation at two retail zones per entity, he secured control over five retail zones and thereby derived undue benefit.

923. The prosecution also relies on his presence in Delhi between 14.03.2021 and 17.03.2021, during which meetings are stated to have taken place between members of the South Group and A-3

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(Vijay Nair), and a draft GoM Report was allegedly handed over and later formalised. Reference is also made to the meeting dated 16.03.2021 and to the clearance of the Excise Policy file on 21.05.2021, which is described as having been processed with unusual haste. A meeting at Gauri Apartments on the same date is projected as part of the alleged plan to maximise profits.

924. It is additionally alleged that he supported and secured the GoM recommendation in favour of M/S Indospirits and that he attended a meeting on 16.03.2021 at Taj Mahal Hotel, Delhi, along with other named individuals. The prosecution further states that he received excess credit notes amounting to ₹1.57 crores from A-9 (Amandeep Singh Dhall). Lastly, it is alleged that upon withdrawal of the Excise Policy on 31.08.2022, an amount of about ₹60 crores remained outstanding in relation to the five retail zones under his control, out of which ₹46,88,78,307/- is stated to be unpaid, and that he was favoured by being permitted not to pay the said amount. These are the allegations as projected against A-23.

Analysis

925. This Court has failed to comprehend the basis on which A-23 has been arrayed as an accused. It is an admitted position that he was not part of any meeting at Gauri Apartments or at ITC Kohinoor, Hyderabad, both of which are projected by the prosecution as the most

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significant meetings where the alleged conspiracy and its modus operandi were crystallised.

926. The only allegation sought to be attributed to him is his purported association with the episode concerning the 36-page printout, which is alleged to have been supplied to A-3, thereafter reaching A-8, and ultimately forming the Second GoM Report dated 19.03.2021. This aspect has already been examined in detail, particularly in light of the statement of PW-71 and 72 the contemporaneous record, and it has been found that the said allegation does not withstand scrutiny.

927. The Second GoM Report, on its plain terms, incorporated turnover clauses which, had they been reflected in the final Excise Policy, would have operated to the detriment of M/S Indospirit. Further, by prescribing an upper cap of 12% on the wholesale margin, the Second GoM Report removed the absence of a ceiling that existed in the earlier draft. The earlier position, where no upper cap was fixed, would, on the prosecution's own theory, have been more advantageous to any wholesale entity seeking recoupment. The fixation of an upper limit, therefore, cannot logically be characterised as a measure favouring the so-called South Group.

928. It is also not in dispute that A-23 is the only accused who had no interest whatsoever in the wholesale or manufacturing layer. In the absence of participation in the alleged foundational

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meetings, absence of demonstrated commercial stake in the wholesale structure, and in view of the infirmities surrounding the 36-page document theory, the basis for implicating A-23 remains wholly unclear on the material presently on record.

929. The allegation concerning the CSR contribution of ₹80 lakhs and the so-called *"sham"* land transaction of ₹14 crores has already been examined in detail. The material on record demonstrates that the land transaction was an independent contractual arrangement, executed as a distinct commercial engagement. There is nothing to indicate that it bore any nexus, direct or indirect, to the formulation or implementation of the Excise Policy, nor to the alleged mechanism of recoupment of the so-called *"upfront amount."* The same conclusion applies to the CSR contribution. Both transactions were routed through regular banking channels, supported by documentation, and reflected in the financial records of the concerned entities. The prosecution has been unable to establish any linkage between these transactions and the alleged conspiracy.

930. If these transactions are sought to be forcibly subsumed within the conspiracy narrative, the internal coherence of the prosecution's theory stands undermined rather than strengthened. The prosecution has consistently projected recoupment as a structured recovery of profits through the wholesale layer. An independent land contract and a CSR contribution, transparently executed through

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banking channels, do not align with such a mechanism. To characterise them as conspiratorial acts would introduce inconsistency into the very architecture of the prosecution's case.

931. Equally significant is the complete absence of material demonstrating any benefit accruing to A-23 so as to justify his alleged participation in the conspiracy. He was not present at the meetings at Gauri Apartments or ITC Kohinoor, which are projected as the foundational stages of the alleged design. His non-participation in these critical meetings assumes relevance when the prosecution's own case treats those meetings as decisive in shaping the modus operandi.

932. The further allegation that A-23 was present at a meeting relating to the grant of distributorship by M/S PRI to M/S Indospirit does not advance the prosecution's case. There is no material to suggest that A-23 had any direct or indirect interest in M/S Indospirit. He is not shown to have held any stake in the wholesale or manufacturing segment, nor is there any allegation that he received credit notes, profit transfers, or any other pecuniary advantage arising out of the distributorship arrangement. Mere presence at a business meeting, absent proof of stake, influence, or benefit, cannot substitute for evidence of conspiratorial participation.

933. The issue of credit notes further accentuates the incongruity in the prosecution narrative. It has already been discussed that A-9 was not favourably disposed towards M/S Indospirit securing

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M/S PRI's distributorship. If that be so, the suggestion that A-9 would then extend credit notes to entities allegedly controlled by A-23 runs contrary to commercial logic. A party dissatisfied with a distributorship outcome would scarcely incentivise the alleged beneficiary of that outcome. This internal contradiction strikes at the root of the theory that A-23 was positioned to receive or channel financial advantages arising from the wholesale structure.

934. Viewed cumulatively, the absence of demonstrable benefit, the lack of participation in decisive meetings, the independent character of the CSR and land transactions, and the inherent contradictions surrounding the credit-note theory leave the allegation against A-23 resting on conjecture rather than cogent material.

935. The allegation that A-23 Sarath Chandra Reddy impermissibly operated through *"multiple entities"* to secure retail licences proceeds on a fundamental misreading of Clause 4.1.2 (ii) of the Delhi DEP-21/22 and the concept of *"related entities"* embedded therein. Clause 4.1.2 (ii) does not prohibit participation by more than one company per se; it only restricts allotment of retail zones where entities are shown to be *"related"* within the meaning assigned by the Policy, namely by reference to shareholding, control, management, or beneficial ownership crossing the prescribed threshold. The mere fact that entities belong to a broader corporate group, or are commercially

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associated, does not ipso facto render them *"related entities"* for the purposes of disqualification or clubbing under the Policy.

936. The prosecution has neither pleaded nor demonstrated, even prima facie, that the entities allegedly associated with A-23 satisfied the Policy-defined criteria of relatedness so as to attract the embargo under Clause 4.1.2 (ii). There is no material placed on record establishing common shareholding beyond the prescribed limit, common directors exercising controlling influence, or any arrangement of beneficial ownership designed to defeat the policy cap. In the absence of such foundational facts, the allegation of misuse of multiple entities collapses into a bald assertion, unsupported by the statutory tests governing eligibility and disqualification.

937. It is also material that the Excise Policy itself contemplated bidding by distinct legal persons, and the scrutiny of *"related entities"* was an institutional exercise entrusted to the Excise Department at the stage of tender evaluation. Once the competent authority accepted the bids and allotted retail zones after applying the Policy criteria, the prosecution cannot, by hindsight, recast lawful participation as criminal conduct without demonstrating fraud, suppression, or misrepresentation at the bidding stage. Criminal liability cannot be fastened merely because a commercial group lawfully succeeded in the tender process.

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938. Viewed thus, the allegation that A-23 secured retail zones through *"multiple entities"* does not disclose any infraction of Clause 4.1.2 (ii) or the *"related entity"* clause under DEP-21/22. Absent proof of policy-defined relatedness or deliberate circumvention, the prosecution's case on this aspect rests on assumption rather than statutory violation, and is insufficient to sustain a charge of conspiracy or undue benefit.

939. Lastly, it is alleged that upon withdrawal of the Excise Policy on 31.08.2022, an amount of about ₹60 crores remained outstanding in relation to the five retail zones under his control, out of which ₹46,88,78,307/- is stated to be unpaid, and that he was favoured by being permitted not to discharge the said liability. This contention does not, on its face, sustain the allegation of conspiracy. The withdrawal of the policy was a subsequent administrative development. At the time when the alleged conspiracy is said to have been conceived or acted upon, there is nothing to indicate that any participant could have anticipated that the policy would be withdrawn on 31.08.2022. An uncertain future event cannot be treated as part of a prior criminal arrangement in the absence of clear material showing such foresight or design.

940. It is also not shown that non-recovery of dues was confined to entities stated to be under the control of A-23. If outstanding amounts existed in respect of other retail licensees as well,

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the issue assumes the character of a commercial consequence following the discontinuance of the policy. In the absence of material demonstrating selective treatment or a prior understanding, the inference of favour remains unsubstantiated.

941. There is no material to suggest that the alleged non-payment was conceived at the inception as a mechanism of recoupment. The prosecution's theory of recoupment rests on distinct allegations and timelines. To equate subsequent outstanding dues with a pre-determined conspiratorial benefit would require specific evidence establishing such linkage, which is not forthcoming.

942. At best, the matter appears to arise out of commercial transactions between wholesaler, manufacturer and retailer under a policy framework that was later withdrawn. Disputes relating to recovery of such dues ordinarily fall within the realm of contractual remedies. The fact that litigation has taken place between the parties further indicates the commercial nature of the controversy.

943. Viewed thus, the allegation regarding outstanding dues does not, by itself, disclose any act in furtherance of a criminal conspiracy. The material relied upon by the prosecution is not sufficient to raise grave suspicion against A-23.

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Collapse of the Prosecution Case Alleging Policy Manipulation, Criminal Conspiracy, and Generation of Proceeds of Crime in the Form of Upfront Money:

944. The very foundation of the prosecution case rests on the assertion that the formulation and implementation of the DEP-21/22 were deliberately engineered to confer undue pecuniary advantage upon the so-called *"South Group"*. The alleged indicia of such design are projected to be the fixation of a 12% wholesaler margin, the stipulation of one manufacturer, one wholesaler, and the definition of *"related entities"*. On this premise, it is alleged that an up-front payment of ₹90–100 crores, purportedly quantified as 6% of anticipated profits, was agreed to and generated as illegal gratification, later stated to have been utilised for the Goa Assembly Election.

945. As noticed and discussed in the preceding paragraphs, the record placed before the Court renders this narrative wholly unsustainable. It stands conclusively established that A-1 and A-2 granted the L-1 licence to M/S Indospirits strictly in accordance with the notified eligibility criteria. The contemporaneous record discloses no deviation, indulgence, or extraneous consideration in the grant of such licence. Notably, the prosecution has failed to place on record any material whatsoever indicating either demand or receipt of illegal gratification by A-1 and A-2, or by any public servant, in connection with the said licensing process.

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946. Equally fragile is the allegation of manipulation in the framing of the DEP-21/22. The documentary trail demonstrates that the policy was formulated through the prescribed institutional route, in consonance with the Transaction of Business of the Government of NCT of Delhi Rules, the Allocation of Business Rules, and the Cabinet Secretariat Manual of Procedures. The prosecution has been unable to identify any unlawful intervention, surreptitious authorship, or distortion of the established decision-making process. In the absence of proof of policy manipulation, the very substratum on which the alleged conspiracy is sought to be erected stands demolished.

947. Once the alleged foundational acts, policy manipulation and grant of licence for illegal consideration, are found to be devoid of evidentiary support, the superstructure of conspiracy necessarily collapses. The theory of generation of *"proceeds of crime"* is entirely derivative of these unsubstantiated premises. Where the genesis itself is missing, the question of accrual, layering, or utilisation of proceeds of crime does not arise. The chain of circumstances projected by the prosecution as forming an unbroken sequence of conspiracy does not merely suffer from missing links; it disintegrates altogether.

948. What emerges instead is a troubling picture of an investigation steered by a preconceived outcome rather than by objective evaluation of evidence. Lawful administrative actions and policy decisions appear to have been selectively extracted, stripped of

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context, and artificially interlinked to manufacture an appearance of conspiracy. Such an approach reflects a marked departure from the settled principles governing fair investigation and betrays an effort to substitute inference and conjecture for proof.

(emphasis supplied)

949. Nevertheless, even in the face of these fundamental infirmities, this Court does not consider it appropriate to leave any allegation unanswered or any issue unexamined. Conscious of its duty to subject every charge to judicial scrutiny, the Court shall, therefore, proceed further to examine the specific allegations relating to the accused persons who are stated to have utilised the alleged cash amounts in the Goa Assembly Election, so that the record may be tested comprehensively and no contention remains unaddressed.

Allegation against A-12

950. So far as A-12, Rajesh Joshi is concerned, the prosecution case, as projected in the Second Supplementary Charge-sheet, proceeds on the footing that he acted as a key Delhi-side conduit/handler in the alleged movement of cash stated to be part of the purported proceeds of crime, which cash is alleged to have been transported from Delhi to Goa for utilisation in connection with the Goa Assembly Elections, 2022. The prosecution does not project A-12 as a recipient at Goa; rather, he is alleged to have operated at the

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source/dispatch end in Delhi, coordinating and arranging cash movement through angadiya channels.

951. In particular, the prosecution attributes to A-12 a quantified linkage under the Asil Corporation channel (June–December 2021). It is alleged that A-12, jointly with A-13 (Damodar Prasad Sharma), arranged and provided cash aggregating to ₹11,93,30,000, which was allegedly handed over to Ashok Chandulal Shah (PW-183), proprietor of M/S Asil Corporation, for onward transfer to Goa through angadiya networks, since Asil Corporation allegedly had no Goa branch. The prosecution relies on PW-183 to attribute this Delhi-side source to A-12, and seeks to dovetail it with the angadiya delivery chain spoken to by PW-182 and PW-180, and with the Goa-side physical handover process described by PW-181, thereby projecting A-12 as the provider/dispatcher of the said cash segment.

952. The prosecution further alleges that the cash, after being handed to PW-183, was routed through the angadiya network of M/S R. Kantilal Finance & Courier Services, and delivered at Goa during the period 21.06.2021 to 31.12.2021, with recipients named as Chanpreet Singh Rayat @ Preet (A-16), Rajiv Ashok Mondkar (PW-181) and Prince Kumar (A-14). In this structure, A-12 is alleged to be the person who arranged the cash at Delhi and caused its dispatch

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through intermediaries, with the delivery-side witnesses being relied upon to show transmission and receipt at Goa.

953. Apart from the above quantified attribution, the prosecution case also projects A-12 as a person involved in the broader cash-transfer architecture, in the sense that he is alleged to have been in contact with intermediaries and angadiya operators involved in routing cash from Delhi through transit points to Goa. However, within the specific framework emerging from paras 16.14 to 16.23 (as relied upon), the quantified monetary attribution against A-12 remains centred on the ₹11,93,30,000 segment alleged to have been arranged and provided by him (with A-13) for onward angadiya transfer to Goa.

954. Accordingly, the prosecution's allegations against A-12 Rajesh Joshi, as projected, are that he functioned as a Delhi-side organiser/provider/dispatcher of cash forming part of the alleged proceeds of crime, and that his role is sought to be established through the Asil Corporation → R. Kantilal route, culminating in delivery at Goa to the recipients named in the prosecution narrative.

Allegations against A-13

955. In so far as A-13, Damodar Prasad Sharma, is concerned, the prosecution case, as projected in the Second Supplementary Charge-sheet, is that he acted in close concert with

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A-12 (Rajesh Joshi) in facilitating and arranging the alleged movement of cash from Delhi to Goa through hawala/angadiya channels. The prosecution does not attribute to A-13 any role as a recipient of cash at Goa; rather, he is projected as operating at the Delhi end, assisting in the collection, arrangement and dispatch of cash which is alleged to form part of the proceeds of crime.

956. The principal and quantified allegation against A-13 arises under the Asil Corporation channel (June–December 2021). The prosecution alleges that A-13, acting as an employee/associate of A-12, jointly arranged and provided cash aggregating to ₹11,93,30,000, which was allegedly handed over at Delhi to Ashok Chandulal Shah (PW-183), proprietor of M/S Asil Corporation, for onward transfer to Goa through angadiya networks. This attribution of source is founded almost entirely on the statement of PW-183, who states that *"Shri Rajesh Joshi and his employee Shri Damodar"* sent cash through M/S Asil Corporation from Delhi to Goa during the period July 2021 to December 2021.

957. The prosecution further alleges that A-13 was in telephonic contact with angadiya operators and intermediaries involved in the routing of cash during the said period, and that he assisted A-12 in coordinating the logistics of dispatch. On this basis, A-13 is projected as having an active role in the arrangement and

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facilitation of the Delhi-side cash movement, though no independent handling, custody or receipt of cash by A-13 is alleged at Goa.

958. According to the prosecution narrative, the cash allegedly arranged by A-13 (with A-12) was thereafter routed through M/S Asil Corporation and transmitted via the angadiya network of M/S R. Kantilal Finance & Courier Services, with delivery at Goa between 21.06.2021 and 31.12.2021 to Chanpreet Singh Rayat @ Preet (A-16), Rajiv Ashok Mondkar (PW-181) and Prince Kumar (A-14). In this structure, A-13's role is confined to the alleged Delhi-side facilitation and instruction, and the prosecution relies on delivery-side witnesses only to establish transmission and receipt at Goa.

959. Beyond the aforesaid quantified segment, the prosecution also seeks to portray A-13 as part of the broader alleged conspiracy to route cash through angadiya channels for political expenditure in Goa. However, within the specific factual framework emerging from paragraphs 16.14 to 16.23 of the Second Supplementary Charge-sheet, the only quantified monetary attribution against A-13 remains the ₹11,93,30,000 segment, alleged to have been jointly arranged and dispatched by him along with A-12.

960. Accordingly, the allegations against A-13, Damodar Prasad Sharma, as recorded by the prosecution, are that he functioned as a Delhi-side facilitator and coordinator, acting in conjunction with A-12 in arranging and dispatching cash through the Asil Corporation

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angadiya route, culminating in alleged delivery at Goa to the recipients named in the prosecution narrative.

Allegation against A-14

961. In so far as A-14, Prince Kumar, is concerned, the prosecution case, as set out in the Second Supplementary Charge-sheet, projects him as a Goa-side recipient of cash, allegedly delivered through hawala/angadiya channels during the period June 2021 to December 2021. Unlike A-Nos. 12 and 13, Prince Kumar is not alleged to have operated at the Delhi end or to have arranged or dispatched cash; rather, his role is confined to the receipt of limited and specifically quantified amounts at Goa.

962. The prosecution attributes to A-14 a specific and quantified sum of ₹16,08,000, allegedly received through hawala transactions on three occasions. As per paragraph 16.22 of the charge-sheet, the said amounts are stated to have been delivered as follows: ₹6,00,000 on 22.09.2021, ₹3,00,000 on 23.09.2021, and ₹7,08,000 on 03.12.2021. These deliveries are sought to be established primarily through the delivery-side angadiya evidence of PW-180 (Sagar Kumar Patel), who claims to have effected delivery at Goa and to have recorded the same in his handwritten delivery records.

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963. Apart from the aforesaid quantified amount, the prosecution further names Prince Kumar as one of the recipients within the broader June–December 2021 delivery segment aggregating to ₹11,93,30,000, which is alleged to have been routed through M/S Asil Corporation and thereafter through the angadiya network of M/S R. Kantilal Finance & Courier Services. However, beyond the sum of ₹16.08 lakhs, no additional specific or segregated quantum is attributed to Prince Kumar individually in the charge-sheet.

964. The prosecution narrative places Prince Kumar (A-14) alongside Chanpreet Singh Rayat @ Preet (A-16) and Rajiv Ashok Mondkar (PW-181) as a recipient at Goa, relying upon the delivery-side statements to show that cash parcels were handed over at Goa through angadiya intermediaries. Prince Kumar is not alleged to have had any role in the sourcing of cash, the routing decisions, or the coordination of angadiya networks, nor is he alleged to have issued instructions to angadiya operators.

965. Accordingly, the allegations against A-14, Prince Kumar, as projected by the prosecution, are limited in scope and nature. He is sought to be implicated as a recipient of relatively small, specifically quantified amounts of cash at Goa, allegedly delivered through hawala/angadiya channels, and as a named recipient within the larger June–December 2021 delivery segment, without any

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independent attribution of source-side activity, facilitation, or control over the alleged cash movement.

Allegation against A-15

966. In so far as A-15, Arvind Kumar Singh, is concerned, the prosecution case, as emerging from the Second Supplementary Charge-sheet, projects him as a Delhi-side financier and facilitator in respect of a distinct and isolated tranche of alleged cash movement during January 2022. Unlike A-12 and A-13, whose alleged roles are linked to the June–December 2021 period through the Asil Corporation channel, A-15 is not associated with that segment. His alleged involvement is confined to what the prosecution describes as the K.S. Enterprises channel.

967. The prosecution alleges that during the period 04.01.2022 to 10.01.2022, a sum of ₹7,10,92,500 was arranged at Delhi by A-15 and thereafter routed to Goa through hawala/angadiya channels. The attribution of the Delhi-side source of this January 2022 tranche is founded exclusively on the statement of PW-183 (Ashok Chandulal Shah), who states that, apart from the Asil Corporation route, there existed a separate arrangement involving K.S. Enterprises, wherein cash was arranged at Delhi by Arvind Kumar Singh and routed through Devang Solanki. PW-183 places this arrangement squarely in the

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January 2022 period and does not state that the said cash passed through Asil Corporation.

968. The prosecution further alleges that the cash so arranged was transmitted through the angadiya network of M/S R. Kantilal Finance & Courier Services. The delivery at Goa during January 2022 is sought to be established through PW-180 (Sagar Kumar Patel), who states that he maintained handwritten delivery records and certifies that deliveries effected between 04.01.2022 and 10.01.2022 aggregated to ₹7,10,92,500, applying the convention of adding three zeros to the figures recorded. PW-180 identifies Chanpreet Singh Rayat @ Preet (A-16) as the recipient of these January 2022 deliveries. However, PW-180 does not depose to the source of the funds, nor does he attribute any instruction or role to A-15 (Arvind Kumar Singh) or Devang Solanki.

969. The prosecution also relies upon PW-192, PW-193 and PW-194 to corroborate the delivery mechanism through the R. Kantilal angadiya system. These witnesses speak to the routing of cash through angadiya channels and the procedure of delivery at Goa, including the use of token or note numbers. None of these witnesses, however, attributes the source or funding of the January 2022 tranche to A-15, and their statements are confined to the factum of routing and delivery through angadiya intermediaries.

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970. It is thus the prosecution's case that A-15, acted as a Delhi-side funder/conduit for the January 2022 tranche of ₹7,10,92,500, which is alleged to have been routed through Devang Solanki of K.S. Enterprises and delivered at Goa to Chanpreet Singh Rayat @ Preet through the angadiya network of M/S R. Kantilal. No allegation is made that A-15 received any cash at Goa, or that he was involved in the earlier June–December 2021 segments. His alleged role, as projected by the prosecution, is thus confined to the funding and facilitation of the January 2022 cash movement, as recorded in paragraphs 16.14, 16.22 and 16.23 of the Second Supplementary Charge-sheet.

Allegation against A-16

971. In so far as A-16, Chanpreet Singh Rayat @ Preet, is concerned, the prosecution case, as projected in the Second Supplementary Charge-sheet, places him at the centre of the alleged cash-movement narrative and portrays him as the principal and ultimate recipient of cash at Goa. The prosecution alleges that A-16 received substantial amounts of cash routed from Delhi through hawala/angadiya channels during the period June 2021 to January 2022, and that such cash constituted part of the alleged proceeds of crime utilised in connection with the Goa Assembly Elections, 2022.

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972. According to the prosecution, the alleged receipt of cash by A-16 spans multiple segments and channels. It is alleged that during the period 21.06.2021 to 10.01.2022, cash aggregating to ₹44.54 crores was delivered to A-16 at Goa through different angadiya routes. This aggregate figure is arrived at by combining several sub-segments of alleged delivery. The prosecution asserts that a sum of ₹17,38,14,500 was directly delivered at Goa through M/S R. Kantilal Finance & Courier Services, with PW-180 (Sagar Kumar Patel) acting as the delivery conduit. In addition, a further sum of ₹27 crores is alleged to have been collected by PW-181 (Rajiv Ashok Mondkar) from the angadiya network and thereafter handed over to A-16 at Goa.

973. The prosecution further alleges that A-16 was a recipient within the June–December 2021 segment aggregating to ₹11,93,30,000, which is stated to have been routed from Delhi through M/S Asil Corporation and thereafter transmitted via the angadiya network of M/S R. Kantilal Finance & Courier Services. Under this segment, A-16 is named alongside Rajiv Ashok Mondkar and Prince Kumar (A-14) as recipients at Goa. The Delhi-side sourcing of this segment is attributed by the prosecution to Accused Nos. 12 and 13, while A-16 is projected as the Goa-side recipient.

974. A further and distinct allegation relates to the January 2022 tranche. The prosecution alleges that during the period

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04.01.2022 to 10.01.2022, a sum of ₹7,10,92,500 was delivered at Goa to A-16 through the angadiya network of M/S R. Kantilal. This tranche is stated to have been funded at Delhi by A-15 (Arvind Kumar Singh) and routed through Devang Solanki of K.S. Enterprises, with A-16 being identified as the ultimate recipient at Goa.

975. In addition to the above, the prosecution also names A-16 as a recipient in the third chain involving routing through multiple Delhi-based angadiyas via a freelance angadiya. Under this chain, cash aggregating to ₹25.50 crores is alleged to have been routed through Kirtikumar Ambalal Angadiya, Maa Ambey Angadiya and Nilkanth Enterprise, coordinated by PW-189 (Chandra Kumar Tripathi @ Chandan), and thereafter delivered at Goa through the R. Kantilal network, with A-16 and PW-181 (Rajiv Ashok Mondkar) named as recipients.

976. The prosecution further alleges that A-16 exercised control over the logistics of receipt at Goa. Reliance is placed on the statement of PW-181, who states that on multiple occasions during November–December 2021, he collected sealed box parcels containing cash from PW-180 (Sagar Kumar Patel) at Goa and handed over the same to A-16 at locations directed by him. On this basis, the prosecution projects A-16 not merely as a passive recipient, but as a person who directed the collection and handover of cash at Goa.

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977. Accordingly, the allegations against A-16, Chanpreet Singh Rayat @ Preet, as projected by the prosecution, are that he functioned as the principal Goa-side recipient and handler of cash, allegedly routed from Delhi through multiple hawala/angadiya channels during June 2021 to January 2022, aggregating to ₹44.54 crores, and that such cash was received and utilised under his directions as part of the alleged proceeds of crime connected with the Goa Assembly Elections, 2022.

Allegation against A-21

978. It is the prosecution case that A-21 Vinod Chauhan acted as a key conduit in the alleged criminal conspiracy relating to the Delhi DEP-21/22, particularly in the transfer and routing of alleged proceeds of crime from Delhi to Goa for utilisation in the Goa Assembly Elections 2022. It is alleged that A-21 maintained close association with senior functionaries of AAP, including accused Arvind Kejriwal and accused Manish Sisodia, and that this association is reflected from digital evidence recovered during investigation.

979. According to the prosecution, data extracted from the Apple iPhone of A-21 Vinod Chauhan revealed WhatsApp chats with a mobile number saved under the contact name *"HCMAK",* stated to be used by A-18 (Arvind Kejriwal). It is alleged that multiple mobile

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numbers attributed to A-18 (Arvind Kejriwal), as well as contact details of A-8 (Manish Sisodia) and other AAP functionaries, were found saved in the phone of A-21. It is further alleged that images of WhatsApp chats relating to arranging meetings with senior leaders, birthday wishes, and other communications were retrieved from the device.

980. It is the prosecution case that PW-195 Ashok Kaushik, former Personal Assistant to A-17 (Ms. K. Kavitha), alleged during investigation that on two occasions he handed over bags containing cash to accused Vinod Chauhan on the instructions of A-4 (Abhishek Boinpally). It is alleged that the cash was delivered in bags at the places directed and was received by A-21 (Vinod Chauhan), forming part of the alleged transfer of proceeds of crime in connection with the Excise Policy conspiracy.

981. The prosecution further alleges that images of GC Notes of ₹10 denomination were recovered from the mobile phone of A-21, and that the serial numbers of these notes corresponded with those allegedly used in hawala transactions involving transfer of about ₹18 crores to A-16 (Chanpreet Singh Rayat) and Rajiv Ashok Mondkar. It is also alleged that screenshots containing serial numbers of ₹10 currency notes received from the mobile phone of A-16 were found stored in the device of A-21 Vinod Chauhan.

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982. On the basis of the aforesaid material, the prosecution alleges that A-21 Vinod Chauhan acted on behalf of A-18 Arvind Kejriwal and AAP as a conduit for transferring alleged ill-gotten money generated from the Excise Policy conspiracy to Goa through hawala channels. It is alleged that the cash so transferred was utilised by A-16 Chanpreet Singh Rayat for making payments in cash to vendors, assembly managers, booth in-charges, volunteers and other persons engaged by AAP for the Goa Assembly Elections 2021–22.

Allegation against A-22

983. It is the prosecution case that A-22 Ashish Chand Mathur acted in close coordination with A-21 Vinod Chauhan in the alleged transfer and routing of proceeds of crime arising out of the Excise Policy conspiracy. It is alleged that A-22 functioned as an intermediary and facilitator in the hawala/angadiya network used for moving cash from Delhi to Goa.

984. According to the prosecution, A-22 Ashish Chand Mathur was associated with Delhi-based angadiya operators and freelance angadiyas, including Chandan Kumar Tripathi @ Chandan, through whom large amounts of cash were allegedly routed to Goa. It is alleged that A-22 provided cash to such angadiyas for onward

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transmission through hawala channels to recipients in Goa, including A-16 Chanpreet Singh Rayat and Rajiv Ashok Mondkar.

985. The prosecution further alleges that call detail records and digital evidence establish telephonic contact between A-22 Ashish Chand Mathur and various persons involved in the alleged cash movement, including angadiya operators and other co-accused. It is alleged that A-22 acted in coordination with A-21 Vinod Chauhan and accused Vinod Chauhan's network to ensure delivery of cash amounts forming part of the alleged ₹25.50 crores routed to Goa.

986. It is alleged that the role of A-22 Ashish Chand Mathur was not independent but was integrally connected with the activities of A-21 Vinod Chauhan, and that together they acted as conduits for transferring alleged illicit funds to Goa for use in election-related expenditure of AAP during the Goa Assembly Elections 2022.

Analysis

(i) Chain 1. M/S Ashil corporation

987. PW-182, Shri Ashokbhai Prahladbhai Shah, who was working as the Manager at the CG Road Branch of M/S R. Kantilal Finance and Courier Service, Ahmedabad, has stated that he was the person responsible for making and maintaining the entries relating to cash transactions at the said branch. He states that the documents

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seized by the investigating agency pertain to routine Angadiya transactions recorded during the normal course of business. PW-182 further clarifies that the entries relating to cash transferred to Goa were communicated by him to PW-180 (Sagar Patel), who was managing the Goa operations, for onward delivery.

988. The statement of PW-182 clearly indicates that the Ahmedabad branch acted only as an intermediate transit point. The cash was received at Ahmedabad from third parties and thereafter transferred to the Goa branch of M/S R. Kantilal Finance and Courier Service for delivery to the end recipient, as per the instructions received.

989. PW-183, Shri Ashokbhai Chandulal Shah, the proprietor of M/S Ashil Corporation and a freelance Angadiya operator, explains the source and movement of this cash. He states that he facilitated the transfer of cash amounts on the instructions of Rajesh Joshi (A-12) and his employee Damodar (A-15). According to PW-183, the money was first handed over to Angadiya firms at Delhi, then routed through Ahmedabad or Mumbai, and finally delivered at Goa through M/S R. Kantilal Finance and Courier Service. He categorically states that during the period July 2021 to September 2021, cash aggregating to approximately ₹5–7 crores was transferred to Goa in several instances, and that one additional transfer of ₹5 crores was effected at the end of December 2021.

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990. PW-183 further clarifies that the December 2021 transfer of ₹5 crores was over and above the earlier transfers made during July–September 2021. He states that the recipient at Goa for these transfers was *"Preet"* during the earlier period, and *"Rajiv"* in the December 2021 transaction. He also admits that his role was confined to arranging and facilitating the transfer through Angadiya networks and receiving confirmation of delivery; he does not state that he personally counted, verified, or physically handled the cash at the destination point.

991. Read conjointly, the statements of PW-182 and PW-183 bring out a simple picture:

(i) the cash originated from Delhi-based persons (identified by PW-183 as Shri Rajesh Joshi and Shri Damodar), (ii) it was routed through Angadiya firms operating at Delhi, Ahmedabad and/or Mumbai,

(iii) the Ahmedabad branch of M/S R. Kantilal Finance functioned only as a transit node, and (iv) the deliveries at Goa took place over a defined period, namely July 2021 to September 2021, with one additional instance in December 2021, aggregating to approximately ₹10 crores in total, as per PW-183's own estimation.

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992. On a conjoint reading of the statements, the prosecution version regarding the movement of cash may be depicted in a clear and sequential manner as under:

Rajesh Joshi / DamodarSharma
(A-12 & A-13, Delhi)

▼

Ashokbhai Chandulal Shah
(PW-183)
Angadiya – M/S Ashil Corporation

▼

M/S R. Kantilal Finance & Courier Service
Ahmedabad Branch, Gujarat
(Manager: Ashokbhai Prahladbhai Shah – PW-182)

▼

M/S R. Kantilal Finance & Courier Service
Goa Branch
(Manager: Sagar Patel – PW-180)

▼

Final Recipients at Goa
• "Preet" – during July to September 2021
(alleged as Accused No. 16 – Charanpreet Rayat)
• "Rajiv" – during December 2021
(examined as PW-181)

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993. As per the prosecution witnesses themselves, the alleged cash originated from Rajesh Joshi and Damodar Sharma (A-12 and A-13) at Delhi. The said cash was first entrusted to PW-183 (Ashokbhai Chandulal Shah), who functioned as an Angadiya through M/S Ashil Corporation. From there, the cash was routed to the Ahmedabad branch of M/S R. Kantilal Finance & Courier Service, where PW-182, as Branch Manager, maintained the accounts and facilitated onward transmission.

994. Thereafter, the cash was sent to the Goa branch of M/S R. Kantilal Finance & Courier Service, which was managed by PW-180 (Sagar Patel). The final delivery at Goa, as per the prosecution case, was made to *"Preet"* (alleged A-16) during the period July to September 2021, and to *"Rajiv"* in December 2021, the latter having been examined as PW-181.

995. Thus, the prosecution's own version delineates a linear Angadiya chain involving multiple intermediaries across Delhi → Ahmedabad → Goa, with each witness attributing to himself a limited, facilitative role confined to routing and delivery, without any assertion of personal verification, counting, or independent knowledge of the contents of the cash parcels at the point of final delivery.

(ii) Chain-2 (K.S. Enterprises) attributed to A-15

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996. In Chain-2, the prosecution seeks to attribute a cash amount of ₹7,10,00,000/- to A-15. The foundation of this allegation rests primarily on the statements of PW-191, Shri Devang Dhirubhai Solanki, stated to be in charge of the Delhi office of K.S. Enterprises, whose statement under Section 161 of Cr.P.C. was recorded on 08.05.2023, followed by his statement under Section 164 of Cr.P.C. on 18.05.2023 (D-239). PW-191 alleges that A-15 handed over cash to him on five to six occasions, which was thereafter delivered at Goa through M/S R. Kantilal & Sons to A-16.

997. To lend support to this allegation, the prosecution relies upon the statement of PW-180, Shri Sagar Patel, Manager of the Goa office of M/S R. Kantilal Finance and Courier Service. PW-180 translates certain handwritten pauti records and asserts that the figures recorded therein are truncated and that the actual amount delivered is to be ascertained by adding three zeroes to the figures mentioned.

998. It appears that the entries translated by PW-180 in his statement, existing at Serial Nos. 17, 18, 19, 20 and 21, pertain to the period 04.01.2022 to 10.01.2022, with the amounts written as ₹9,900, ₹9,950, ₹13,432, ₹29,850 and ₹7,960, which, upon application of the witness's own method, translate to ₹99,00,000/-, ₹99,50,000/-, ₹1,34,32,000/-, ₹2,98,50,000/- and ₹79,60,000/- respectively. On the

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prosecution's showing, these entries are sought to be treated as reflecting deliveries at Goa in early January 2022.

(iii) Chain-3:Cash Transfer through Delhi-based Angadias via Freelance Angadia PW-189 (Chandan Kumar Tripathi)

999. **Sub-Chain (A):** Alleged Transfer of ₹3.50 Crores (28.09.2021–29.09.2021) PW-189 (Sarvesh Kumar Yadav) states that on 28.09.2021, a sum of ₹1,50,000/- was collected from Ashish Mathur at an office situated opposite Lodhi Hotel, Delhi Jal Board premises, and on 29.09.2021, a further sum of ₹2,crores was collected from C-97, First Floor, Defence Colony, New Delhi. According to PW-189 the said amounts were collected jointly by him and PW-190 , transported in multiple instalments of approximately ₹50 lakhs per trip, and handed over in Delhi to Hashmukh Bhai of M/S Kirti Kumar Amba Lal Angadia Firm, Chandni Chowk. PW-189 further states that token/note numbers and the mobile number of the intended recipient were provided, and that his role ended with the delivery of cash to the Angadia firm in Delhi. PW-189, in material conformity with PW-190 to this extent, also refers to the collection of an aggregate amount of ₹3.50 crores on 28.09.2021 and 29.09.2021 and its transfer from Delhi to Goa through Angadia channels.

1000. However, PW-189 introduces additional elements not stated by PW-190, namely that the cash was transferred through M/S

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Maa Ambe Angadia, and that the delivery at Goa was effected through M/S Kantilal Courier Service, managed by Sagar, to Preet, whom the prosecution seeks to project as A-16. Thus, while PW-190's statement is confined to collection in Delhi and handover to Hashmukh Bhai of M/S Kirti Kumar Amba Lal, PW-189 extends the chain beyond Delhi by asserting delivery at Goa, naming the courier firm and the recipient. PW-190 does not speak of M/S Maa Ambe, M/S Kantilal Courier Service, Sagar, or Preet, nor does he claim any knowledge of the Goa-end delivery.

1001. **Sub-Chain (B):** Alleged Transfer of ₹22 Crores (Undated / Cumulative) In the concluding portion of his statement, PW-189 alone states that, apart from the ₹3.50 crores, he facilitated the transfer of a further sum aggregating to ₹22 crores from Delhi to Goa. He states that this amount was routed through multiple Delhi-based Angadia firms, namely M/S Kirti Amba (Hashmukh Bhai), M/S Maa Ambe (Jagat Bhai), and M/S Neel Kant (Vishal Bhai). According to PW-189, this amount was delivered at Goa through M/S Kantilal Courier Service, managed by Sagar, to Rajeev, and the prosecution seeks to attribute such receipt to Rajeev acting on behalf of A-16. PW-190, however, is completely silent on any such transfer of ₹22 crores. He does not refer to any collection, transportation, handover, Angadia routing, or delivery, whether in Delhi or Goa, of this amount.

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No date-wise breakup, source-wise attribution, or mode of collection of the alleged ₹22 crores finds mention in the statement of PW-190.

(iv) Angadia "Pauti" Documents (D-Series) Tested on the Touchstone of V.C. Shukla (supra) (Jain Hawala Case)

1002. A careful examination of the prosecution's own documentary index and witness disclosures reveals that the Angadia evidence relied upon in the present Excise Policy case rests entirely upon a set of so-called *"pauti"* documents marked as D-series exhibits (inter alia D-210, D-211, D-227, D-230, D-231, D-232, D-239, D-243). These documents have been produced through Angadia witnesses including PW-180, PW-186, PW-189, PW-191 and others. The prosecution's own description of these documents is of decisive evidentiary significance. The pautis produced by the respective witnesses are set out below in tabular form. In addition, certain scanned copies of the said pautis are reproduced for the limited purpose of highlighting their description and contents, so as to facilitate an examination of their admissibility in evidence.

Sr No.	Name	Firm Name	Documents	Description
PW-180	Sh. Patel Sagar Kumar	Manager in R Kanti Lal Finance & Courier Service	D-210 & D-211 (A to F)	**(Certified copies of white plain sheets hand written**

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		(Looking after all the Goa Based Work)	Total 06 Files	**by pencil having pages 48, 48 , 52, 36, 96, & 26)** **(seized during the search proceedings u/s 132 of Income Tax Act, 1961)**
PW-182	Ashok Bhai Prahalad Bhai	Manager M/S R. Kanti Lal Finance & Courier Service. CG Road Branch, Ahmedabad, Gujarat.	D-227	**08 Pages (normal ruled register written by pencil)**
PW-183	Ashok Bhai Chandul al Shah	(Owner of Ashil Corp) Till 2020	-	**No records available on record**
PW-186	Hashmu kh Bhai Kala Bhai	Incharge of M/S Kriti Kumar Amba Lal, 356 Ist Floor, Kucha Kanshi Ram, Chandni Chowk	D-230 D-231	**02 Pages (plain white sheets han written by pencil)** **06 Pages of register , Hand written by pencil.**

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		Delhi-06.		
PW-187	Ishwar Bhai Patel S/o Nathalal Patel	Manager in Kriti KumarAmba Lal Angadiya, 2nd Fofalwadi, Building No. 14, Ist Floor, Room No. 16, Bhuleshwar, Mumbai-400002	-	**Not available on record**
PW-188	Jagat Singh G Thakor S/o Sh Ganda Ji Thakor	Owner of M/S Maa Ambe & Co. 132-33, Ist Floor, Kucha Ghasi Ram, Chandni Chowk, Fatehpuri, Delhi-06	D-232	**02 Pages of plain sheets (Old Yellowish colour) hand written by pencil and heading in red colour)**
PW-190	Sarvesh Kumar Yadav	Employee of Chandra Kumar Tripathi. F-15, 2nd Floor, Bhagat Singh Market, Gole Market, New Delhi.	D-230	**02 Pages (plain white sheets hand written by pencil)**
PW-191	Devang	In-charge of	-	**No records**

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	Solanki	M/S K. S. Enterprises, 457 Ist Floor, Hayderkuli, Chandni Chowk, Delhi.		**available on record**
PW-192	Patel Muruges h Bhai Popatlal @ Chintu Bhai	Employee of R. Kantilal Courier & Financial Service, Surat, Gujrat.	-	**No records available on record**
PW-193	Vishal Kumar Bhartbh ai Patel	(Incharge-Nilkhant Enterprises) Shop No. 287 Ist floor, Kucha Kashi Ram, Chandni Chowk, Delhi-06	D-243	**06 Numbers of Big Size ruled paper sheets, Both sides written by pencil.**
PW-194	Binit Kumar Popat Lal Patel	Manager in M/S R. Kanti Lal & Sons M-28 Silver Point Complex, Bhatar, Surat Gujarat-395017.	D-211 E Page-44 (total pages in file 1 to 96)	**Photocopy of handwritten page of file D-211 (E) seized by income tax department.**

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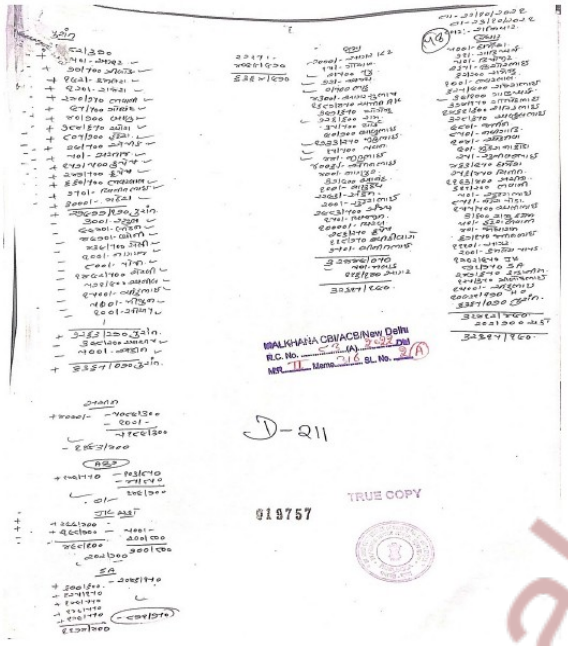

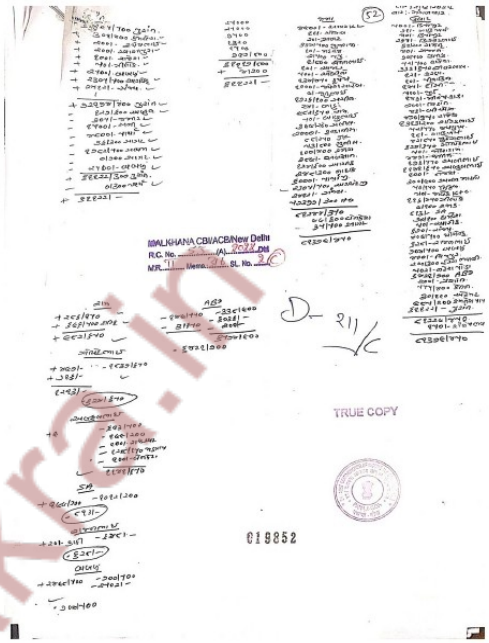

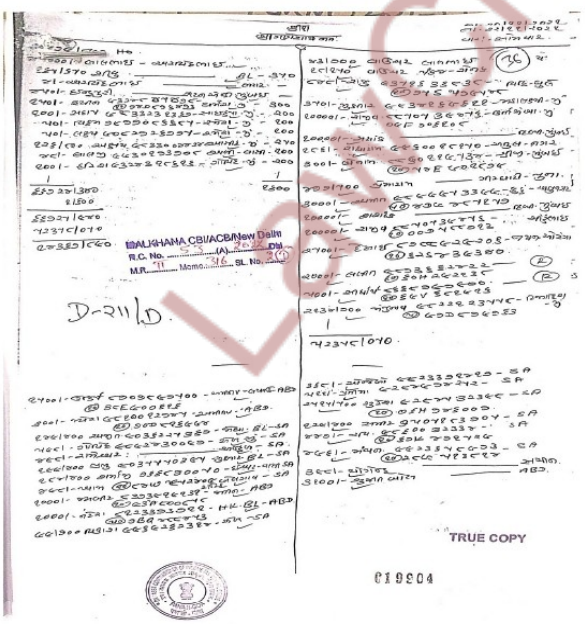

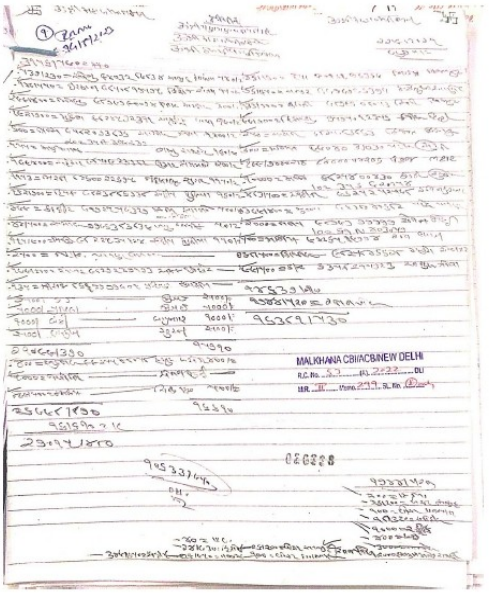

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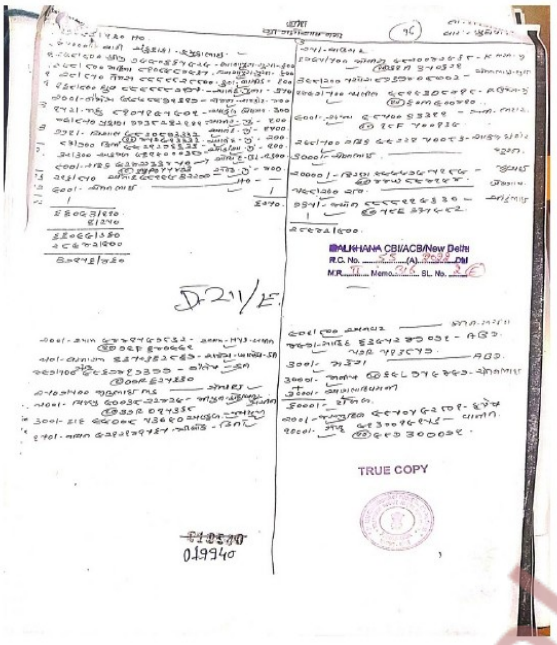

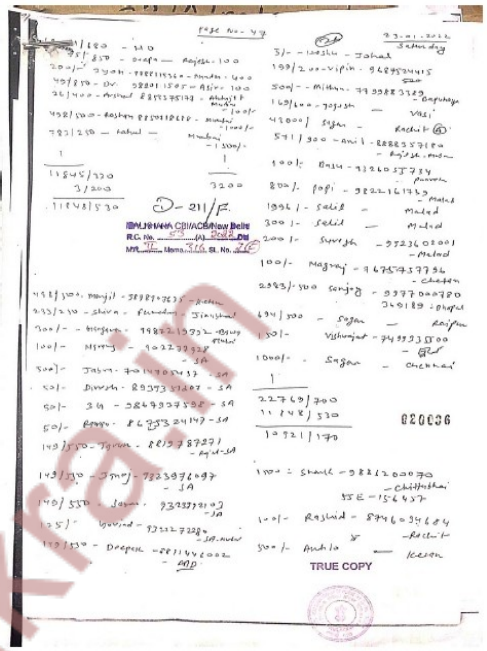

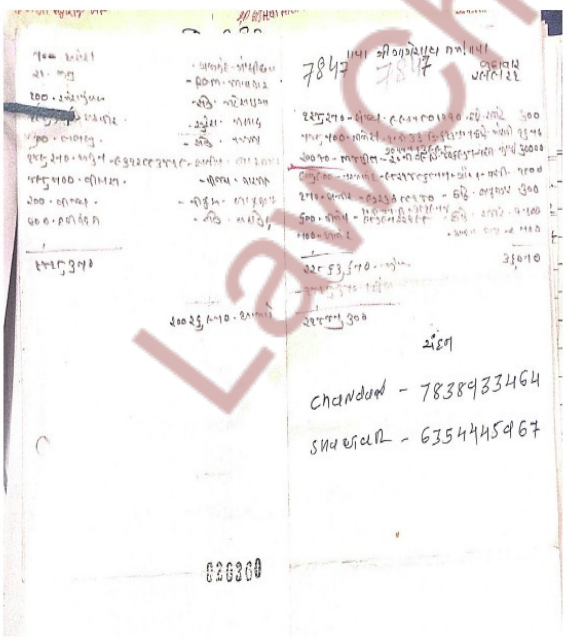

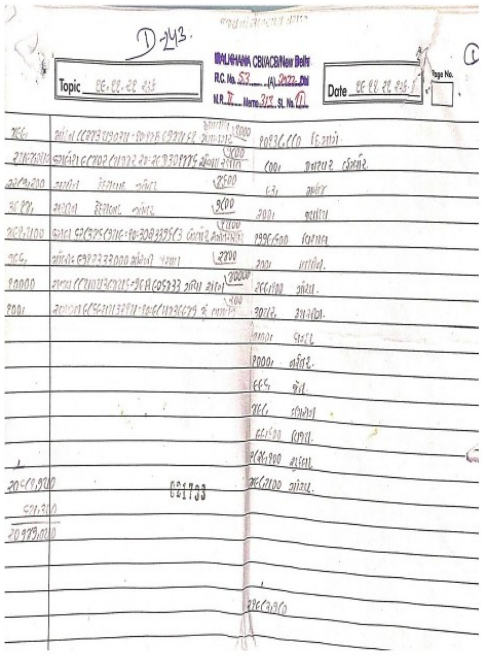

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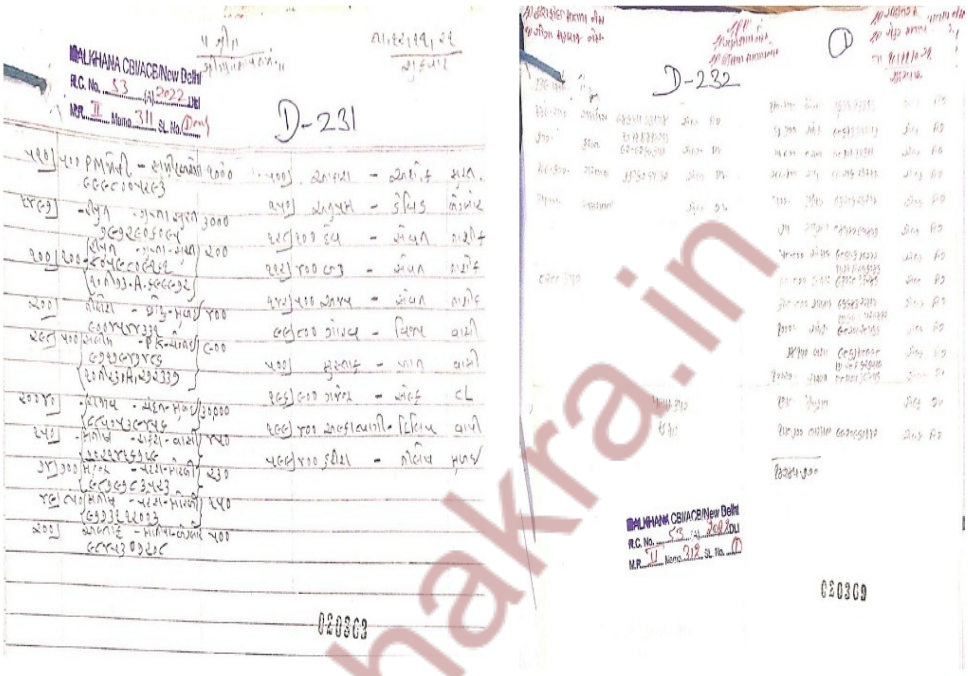

1003. The overwhelming majority of these exhibits are recorded as plain white loose sheets, photocopies of white plain sheets, old yellowish loose pages, bis-size loose pages, or at best isolated ruled register pages, uniformly handwritten in pencil, with several pages being partly blank and unstructured. None of these documents are shown to be bound, paginated, contemporaneously maintained, or part of any continuous or regularly kept ledger in the ordinary course of business.

1004. A witness-wise scrutiny further reinforces this infirmity. PW-180 Sagar K. Patel / R. Kanti Lal Patel, produced through Sh.

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Ashok Bhai Prahlad Bhai, Manager, R. Kanti Lal Finance & Courier, has brought on record documents D-210 & D-211 (running into multiple sets of pages) and D-227, described as files consisting entirely of photocopies of white plain sheets, handwritten, and normal ruled register pages written in pencil. PW-186 Hashmukh Bhai Kala Bhai, In-charge, Kriti Kumar Amba Lal Angadiya, produced documents D-230 (02 pages, plain white sheets handwritten in pencil), D-231 (06 pages of register handwritten in pencil), D-232 (02 pages of old yellowish loose sheets handwritten in pencil with headings in red), and D-233 (statement of Chandra Kumar Tripathi, freelance Angadiya). PW-189 Chandan Kumar Tripathi produced D-243 & D-260, described as 06 bis-size loose pages handwritten in pencil. PW-191 Devang Solanki, In-charge, M/S K.S. Enterprises (also examined under Section 164 of Cr.P.C. as Devang Dhirubhai Solanki), produced D-271 & D-239, again not shown to be bound, paginated, or maintained as part of any regular books of account. Other Angadia witnesses, PW-183 Ashok Bhai Chandulal Shah (Owner, Ashil Corp), PW-187 Ishwar Bhai Patel (Manager), PW-188 Jagat Singh G. Thakor (Owner, Maa Ambe Co.), PW-192 Patel Murgesh Bhai Popatlal @ Chintu Bhai (R. Kantilal Courier & Financial Service), PW-193 Vishal Kumar Bhartbhai Patel (In-charge, Nilkhant Enterprises), and PW-194 Binit Kumar Popat Lal Patel (Manager, R. Kanti Lal), are all linked to the same genre of informal, loose Angadia records.

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1005. What unmistakably emerges is that the prosecution itself characterises the Angadia *"pauti"* material as loose, detachable, pencil-written sheets, often partly blank, with no witness asserting that these papers formed part of any bound, paginated or regularly maintained ledger kept in the ordinary course of Angadia business.

1006. This factual position brings the Angadia *"pauti"* material into direct and unavoidable comparison with the documentary foundation examined by the Hon'ble Supreme Court in ***V.C. Shukla (supra).*** In that case, searches at the premises of J.K. Jain yielded diaries, notebooks and loose sheets containing alleged coded entries of receipts and payments. The Supreme Court recorded that the entire edifice of the prosecution case rested on those diaries and loose papers, and proceeded to test their admissibility and evidentiary value under Section 34 of the Evidence Act. The Court authoritatively has observed that: *"...Book' ordinarily means a collection of sheets of paper or other material… fastened or bound together so as to form a material whole. Loose sheets or scraps of paper cannot be termed as 'book' for they can be easily detached and replaced…."*.

1007. Applying this test, it was categorically concluded that loose sheets could not be treated as books of account at all. Even in respect of spiral notebooks which were treated as *"books",* the Court sounded a further and decisive caution:

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"...From a plain reading of the Section it is manifest that… even if the above requirements are fulfilled and the entry becomes admissible as relevant evidence, still, the statement made therein shall not alone be sufficient evidence to charge any person with liability….".

1008. The rationale for this statutory limitation was explained in words of enduring relevance:

"...Since… an element of self-interest and partisanship of the entrant… cannot be ruled out, the additional safeguard of insistence upon other independent evidence… has been provided for in Section 34 by incorporating the words 'such statements shall not alone be sufficient to charge any person with liability'…".

1009. Ultimately, while dealing with allegations against Shri L.K. Advani and Shri V.C. Shukla, the Hon'ble Supreme Court held:

".....A conspectus of the above decisions makes it evident that even correct and authentic entries in books of account cannot without independent evidence of their trustworthiness, fix a liability upon a person….Keeping in view the above principles… those entries would not be sufficient to charge Shri Advani and Shri Shukla… for there is not an iota of independent evidence in support thereof….".

1010. When these settled principles are applied to the Angadia *"pauti"* material in the present case, the infirmity becomes even more pronounced. Unlike the Jain Hawala matter, where at least some spiral notebooks were treated as *"books",* the D-series documents here are overwhelmingly loose sheets, photocopies, or isolated register pages, written in pencil, with no proof of regular maintenance in the course of business. Their detachable, incomplete and informal nature renders

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them inherently vulnerable to interpolation and manipulation, and wholly unreliable as legal evidence.

(emphasis supplied)

1011. Even assuming, for the sake of argument, that such *"pauti"* entries could be looked at for a collateral purpose, *V.C. Shukla (supra)* decisively holds that entries by themselves, howsoever voluminous, cannot fasten criminal liability without independent corroboration. No such independent evidence, whether by way of lawful recovery from the accused, admissible banking or financial trail, contemporaneous electronic records, or proof of demand, acceptance or conscious possession, has been placed on record in support of the Angadia notings.

1012. Moreover, it is of decisive importance to note that the statements of the Angadia witnesses are not independent or self-contained narratives of any transaction. Their depositions are admittedly founded upon and derived from the so-called *"pauti"* entries. Once these entries are held to be legally inadmissible, or are otherwise denuded of probative value in light of the settled principles laid down in *V.C. Shukla* (supra), the testimonial edifice erected upon them cannot be sustained. The witnesses merely seek to explain or interpret the pauti notings; they do not depose to any contemporaneous act of payment, receipt, delivery, or conscious handling of cash by the accused, independent of those writings.

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1013. The Angadia witnesses, inter alia PW-180, PW-186, PW-189, PW-191 and allied witnesses, are not neutral observers. By their own showing, they are persons allegedly involved in the very mechanism through which cash is claimed to have been transported or handled. While their statements seek to exonerate themselves by asserting absence of participation in any conspiracy or lack of knowledge regarding the origin of the cash amounts, the same statements nonetheless bring them within the legal contours of abetment. For understanding the scope of the expression *"aid"* occurring in the third clause of Section 107 IPC, reference may be made to Explanation 2 thereto, which reads as under:

> *"….Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act….".*

1014. Tested on this statutory explanation, the role attributed to the Angadia witnesses, as emerging from their own depositions, renders their statement *accomplice-like in character*. In criminal jurisprudence, such evidence is inherently suspect and cannot, in law, form the sole basis of criminal liability without strict and independent corroboration. A witness cannot be permitted to corroborate his own legally infirm document, nor can mere repetition of such statements elevate them to the status of independent proof. As has been discussed on multiple occasions, the statement of one accomplice cannot serve

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to corroborate the statement of another accomplice. In other words, accomplice evidence cannot be mutually corroborative in law. Reliance is placed upon the judgments of Hon'ble Supreme Court in **K. Hashim (supra)**, **Somasundaram (supra), Laxmipat Choraria (supra) and A.R. Antulay (supra).**

1015. This position stands squarely supported by *V.C. Shukla (supra)*, wherein the Hon'ble Supreme Court rejected the prosecution's attempt to utilise statements of certain alleged recipients to validate diary entries against others, holding that such statements could, at best, establish reliability of the entries qua the maker or recipient alone, and not operate as independent corroboration against third parties.

1016. Consequently, the alleged *"chain of payment"* sought to be projected by the prosecution is rendered wholly speculative. With the foundational pauti entries excluded from consideration, the purported links in the chain remain suspended in mid-air, without any legally admissible anchor at either end. There is no lawful recovery, no contemporaneous banking or financial trail and no proof of demand, acceptance, or conscious possession of the alleged proceeds of crime.

1017. The prosecution's case, in substance, rests primarily and substantially on the pauti entries to demonstrate the movement of money in cash, characterised as *"proceeds of crime"*. Once those entries fail the test of admissibility and evidentiary reliability, the

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entire narrative of cash movement collapses. What remains are allegations unsupported by legally sustainable material, denuded of continuity, corroboration, or evidentiary linkage.

1018. Accordingly, this Court is constrained to observe that the prosecution has failed to cross the basic evidentiary threshold required even at the stage of framing of charge. Treating the Angadia witnesses as accomplice-like witnesses, and applying the settled principles reiterated in *V.C. Shukla (supra)*, the absence of independent corroboration proves fatal. The narrative of cash movement and alleged proceeds of crime, once stripped of its inadmissible foundation, collapses in its entirety, leaving the allegations bereft of substance, continuity, or prima facie legal support.

(v) Appreication of Statement of PW-180 (Angadiya Records and Cash-Delivery Entries)

1019. Admittedly, PW-180, Patel Sagar Kumar, was the Manager of the Goa office of M/S Kantilal Finance and Courier Service, an Angadia firm which, as per the prosecution's own case, was the only such firm operating at Goa during the relevant period. It is the prosecution's categorical stand that the so-called pauti entries spoken to by PW-180 constitute the pivotal material relied upon to bridge and complete the alleged chain of delivery of cash at the Goa end.

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1020. In this backdrop, the statement of PW-180 assumes a position of central importance. The pauti entries relied upon are not peripheral or corroborative in nature; rather, they are projected as the primary basis to establish both the factum of delivery and the alleged receipt of cash. Consequently, the figures recorded therein, the manner in which such figures are sought to be interpreted, and the method adopted to arrive at the alleged quantum of money received and disbursed cannot be accepted at face value. They necessarily warrant close and careful scrutiny, particularly in the absence of contemporaneous, systematically maintained records or independent corroboration. Any inconsistency, exaggeration, or internal incongruity in the quantification of amounts would, therefore, strike at the very foundation of the prosecution's alleged money-movement chain.

1021. PW-180 an Angadiya associated with M/S Kantibhai (Kantilal) Finance and Courier Service, is projected by the prosecution as the author of certain handwritten *"pauti"* records seized during an Income-Tax raid at the premises of the said entity in Goa. The witness states that these records were prepared by him in Gujarati, in the regular course of business, and that the entries reflected cash receipts and deliveries effected through the Angadiya channel.

1022. According to PW-180, the cash amounts noted in the pauti were received at Goa by one *"Preet",* described as a Sardar, and

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one *"Prince"*. The prosecution seeks to identify *"Preet"* as A-16 and *"Prince"* as A-14. On the basis of the said *pauti*, the prosecution alleges, in cumulative terms, that A-16 ultimately received cash aggregating to about ₹44.5 crores in Goa, and that A-14 received certain amounts in three transactions.

1023. PW-180 further explains a crucial feature of the record-keeping practice followed by the Angadiya establishment. He categorically states that the figures written in the column titled *"Amount"* do not represent the full cash amount, and that the actual figure transferred is to be obtained by **adding three zeroes** to the figure mentioned. At the last para PW-180 categorically states that *" the actual figure transferred can be obtained by adding three zeroes in the finger mentioned in coloumn titled amount. It is in practice that we do not write last three zeroes of the actual amount transferred in our records. In case the amount dealt do not contain zero in last three places than we write the full amount and put a stroke before digit at hundreds place".* He clarifies that, as a matter of practice, the last three zeroes of the actual amount are not written; where the amount does not end with three zeroes, the full amount is written with a stroke before the digit at the hundreds place. This explanation is expressly recorded by the witness in the concluding portion of his statement.

1024. Applying the witness's own explanation, and translating the *pauti* entries accordingly, the amounts allegedly received by

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"Preet" (attributed to A-16) are reflected in Serial Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9 and 11 to 21 of the table relied upon by PW-180. The amounts attributed to *"Prince"* (alleged to be A-14) are reflected at Serial Nos. 10, 11 and 16.

1025. For clarity, and strictly on the basis of PW-180's own statement that three zeroes are to be added, the translated chart may be depicted as under:

Translated Chart (Amounts After Adding Three Zeroes, as per PW-180)

A. Entries attributed to "Preet" (alleged A-16)

Sl. No.	Date	Amount Written	Amount after adding three zeroes (₹)
1	21.06.2021	4,000	40,00,000
2	28.06.2021	12,12,000	12,12,00,000
3	29.06.2021	18,00,000	18,00,00,000
4	05.07.2021	30,00,000	30,00,00,000
5	04.08.2021	5,000	50,00,000
6	07.08.2021	5,400	54,00,000
7	25.08.2021	310	3,10,000
8	01.09.2021	15,000	1,50,00,000
9	02.09.2021	7,000	70,00,000
11	23.09.2021	10,000	1,00,00,000
12	28.09.2021	15,000	1,50,00,000
13	28.09.2021	15,000	1,50,00,000
14	29.09.2021	20,000	2,00,00,000
17	04.01.2022	9,900	99,00,000
18	05.01.2022	9,950	99,50,000
19	06.01.2022	13,432/500	1,34,32,000 / 5,00,000
20	07.01.2022	29,850	2,98,50,000
21	10.01.2022	7,960	79,60,000

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B. Entries attributed to "Prince" (alleged A-14)

Sl. No.	Date	Amount Written	Amount after adding three zeroes (₹)
10	22.09.2021	600	6,00,000
11	23.09.2021	300	3,00,000
16	03.12.2021	708	7,08,000

1026. PW-180 thereafter makes a sweeping assertion that, in aggregate, a sum of **₹17,54,22,500/-** was delivered to *"Preet, Preeti and Prince"* at Goa, and a further sum of **₹27,00,00,000/-** was delivered to one *"Raju/Rajiv"* at Goa. On this basis, the prosecution alleges that A-14 received ₹16,08,000/- in three transactions, and that a sum of ₹27 crores was received by Rajiv Ashok Mondkar on behalf of A-16.

1027. Applying PW-180's own clarification that the *"actual figure transferred can be obtained by adding three zeroes"* to the amount mentioned in the pauti, the entries relating to **Raju/Rajiv** translate as under:

C. Entries Relating to "Raju/Rajiv":

Sl. No.	Date	Amount Written	Amount after adding three zeroes (₹)
1	12.11.2021	20,000	2,00,00,000
2	13.11.2021	20,000	2,00,00,000
3	13.11.2021	20,000	2,00,00,000
4	15.11.2021	30,000	3,00,00,000
5	19.11.2021	10,000	1,00,00,000
6	19.11.2021	10,000	1,00,00,000
7	20.11.2021	10,000	1,00,00,000

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Sl. No.	Date	Amount Written	Amount after adding three zeroes (₹)
8	20.11.2021	10,000	1,00,00,000
9	22.11.2021	10,000	1,00,00,000
10	22.11.2021	10,000	1,00,00,000
11	23.11.2021	15,000	1,50,00,000
12	24.11.2021	10,000	1,00,00,000
13	24.11.2021	15,000	1,50,00,000
14	26.11.2021	20,000	2,00,00,000
15	27.11.2021	10,000	1,00,00,000
16	31.12.2021	50,000	5,00,00,000

Total (Raju/Rajiv): ₹27,00,00,000/- (₹27 crores)

1028. The prosecution seeks to identify *"Raju/Rajiv"* as Rajiv Ashok Mondkar, who has been examined as PW-181. When the entirety of the amounts reflected under **Heading 'A'** (entries attributed to *"Preet"*), are cumulatively added with the amounts reflected under **Heading 'B'** (entries attributed to *"Prince"*) and **Heading 'C'** (entries relating to Raju/Rajiv, alleged to have been collected on behalf of A-16), the aggregate figure attributable to A-16 works out as under:

- **Heading 'A' (Preet):** ₹76,95,02,000/-
- **Heading 'B' (Prince):** ₹16,08,000/-
- **Heading 'C' (Raju/Rajiv):** ₹27,00,00,000/-
- **Total Aggregate: ₹1,04,11,10,000/- (approximately ₹104.11 crores).**

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1029. This cumulative figure, arrived at strictly by applying PW-180's own stated method of adding three zeroes to the amounts mentioned in the pauti, stands in stark and irreconcilable contrast to the prosecution's projected figure of approximately **₹44.5 crores** allegedly received by A-16. The magnitude of this divergence underscores that the prosecution's computation is not borne out by the internal arithmetic of the very documents and statement on which reliance is placed.

1030. When the entries are accepted *as explained by PW-180 himself*, and the amounts are mechanically recalculated by adding three zeroes to the figures written in the pauti, the resultant totals travel far beyond the figures selectively projected by the prosecution. The internal arithmetic emerging from the witness's own method does not align with the prosecution's stated aggregates, either qua A-16 or qua A-14.

1031. This figure stands in stark and irreconcilable contradiction to the prosecution's projected figure of approximately **₹44.5 crores** allegedly received by A-16. The incongruity is not marginal but fundamental, and flows directly from the witness's own explanation of the accounting practice.

1032. Thus, when the statement of PW-180 is read as a whole, and applied in the manner expressly stated by him, the prosecution's numerical conclusions are shown to be the result of selective

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extraction and truncation of the very records relied upon. The statement of PW-181 does not cure this defect, as he nowhere asserts having verified, opened, or counted the cash allegedly delivered. Read conjointly, the statements of PW-180 and PW-181 render the prosecution theory on quantum not merely doubtful but internally inconsistent at the threshold stage, undermining the reliability of the figures sought to be projected against the accused.

1033. This incongruity assumes significance at the threshold stage, as it demonstrates that the prosecution's numerical conclusions are not a natural or inevitable consequence of PW-180's statement, but depend upon selective extraction and truncation of the very records on which reliance is placed.

1034. Thus, when the statement of PW-180 is read as a whole, and applied in the manner expressly stated by him, the prosecution's numerical conclusions are shown to be the result of selective extraction and truncation of the very records relied upon. The statement of PW-181 does not cure this defect, as he nowhere asserts having verified, opened, or counted the cash allegedly delivered. Read conjointly, the statements of PW-180 and PW-181 render the prosecution theory on quantum not merely doubtful but internally inconsistent at the threshold stage, undermining the reliability of the figures sought to be projected against the accused.

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1035. It emerges as an admitted position from the record that A-12, A-13, A-14, 15, 16, 21 and 22 were not participants in any meeting, discussion or interaction in which the alleged conspiracy to manipulate the DEP-21/22 is claimed to have been conceived, deliberated upon or executed. Equally, there is no material to suggest that either these accused or M/S Chariot Productions Media Pvt. Ltd., APPL and IANPL had any direct or indirect engagement with any wholesaler or retail licensee operating under the DEP-21/22. In the absence of any policy-side linkage, participation or nexus, the prosecution's case necessarily shifts away from acts of manipulation and rests entirely on a theory of alleged *"knowledge",* namely, that the funds utilised during the Goa election campaign were purportedly *"proceeds of crime".*

1036. It is also not in dispute that M/S Chariot Productions Media Pvt. Ltd. undertook campaign-related work for the Aam Aadmi Party in Goa. The prosecution itself relies upon the statement of PW-91 and places on record multiple release orders, work instructions and execution of campaign activities. The case, therefore, is not founded on an allegation of fictitious or non-existent work, nor does the prosecution advance a case of a sham or shell entity floated to camouflage transactions. The gravamen of the allegation is confined to the asserted mode and manner of expenditure, rather than the absence of any underlying campaign activity.

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1037. The prosecution seeks to bridge this gap primarily through angadiya witnesses, loose slips, private notings and allied materials, supplemented by call detail records. In law, however, such material does not, by its mere existence, establish either the source and taint of the funds, the requisite knowledge on the part of the accused, or any agreement or common design constituting a criminal conspiracy. As settled in *V.C. Shukla (supra)*, loose sheets and private records maintained in the course of business do not acquire the status of substantive evidence merely because they are seized and produced. Further, angadiya witnesses, who admittedly speak to sustained cash movement through informal channels, bear an accomplice-like character, and their statement, as a matter of prudence, requires independent corroboration on material particulars, which is conspicuously absent on the present record. Reliance is again placed upon the judgments of Hon'ble Supreme Court in **K. Hashim (supra)**, **Somasundaram (supra), Laxmipat Choraria (supra) and A.R. Antulay (supra).**

1038. Call detail records and evidence of physical presence, at best, establish contact or connectivity. They do not disclose the content of the communication or the purpose of the interaction. Absent admissible and reliable material of the criminal context or subject matter of such calls or meetings, mere telephonic contact or presence cannot be elevated into *"grave suspicion"* of conspiracy or imputed

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knowledge of alleged proceeds of crime. To do so would be to substitute conjecture for proof, and inference for evidence, a course impermissible even at the threshold stage of consideration.

1039. On a cumulative appreciation of (i) the prosecution's own structuring of the three chains; (ii) the admitted position of no policy-side nexus qua A-12, A-15, A-16,A-21 and A-22; (iii) the prosecution's reliance on loose sheets/private angadiya records and accomplice-like versions; and (iv) the binding controls in *Laxmipat Choraria (supra)*, *A.R. Antulay (supra)* and *V.C. Shukla (supra)*, this Court finds that the prosecution has not supplied the legally required bridges of proof to sustain, even at the threshold, the allegation of conspiracy or conscious handling of proceeds of crime against A-12, A-13, A-14, A-15, A-16, A-21 and A-22.

1040. The prosecution material, at its highest, demonstrates a narrative of alleged cash routing/delivery within the angadiya ecosystem. It does not, on legally admissible and independently corroborated material, establish (a) the criminal provenance of the cash as *"proceeds of crime"* of an excise-policy conspiracy; (b) knowledge or reason to believe in that provenance; or (c) a meeting of minds amounting to criminal conspiracy. The deficiencies are not minor *"missing links"*; they go to the root, because the prosecution's edifice seeks to derive guilt from inadmissible/private records,

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uncorroborated accomplice-like statement, and neutral technical data, an approach expressly cautioned against in *V.C. Shukla (supra)*.

Foundational Issues Requiring Consideration Before Final Determination at the Stage of Order on Charge

1041. Upon a holistic consideration of the entire record, including the material placed by the prosecution, the rival submissions addressed, and the analysis undertaken by this Court, it becomes necessary, before proceeding to the final determination at the stage of order on charge, to foreground certain foundational aspects of the case. The present matter does not involve a conventional allegation of bribery founded upon a direct quid pro quo between a bribe giver and a bribe taker. Instead, the prosecution advances a far more expansive narrative, alleging impropriety in the formulation of a public policy and seeking to implicate, in one broad sweep, public servants, members of the political executive, private businessmen, political party functionaries, and even party volunteers.

1042. In doing so, the prosecution narrative travels beyond the traditional contours of corruption jurisprudence and enters the sensitive constitutional terrain of the electoral process itself, by attempting to link the alleged policy formulation with expenditure stated to have been incurred during a State election. Such an approach, by its very nature, raises issues of grave constitutional and institutional consequence, as it risks casting a generalized cloud of criminal

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suspicion over the electoral process as a whole, rather than confining scrutiny to clearly identifiable acts constituting defined criminal offences.

1043. It is against this backdrop that this Court considers it imperative to pause and examine certain fundamental questions before recording its final view on the issue of framing of charge. The breadth of the allegations, the spectrum of actors sought to be drawn within the prosecutorial net, and the manner in which electoral expenditure and political activity are sought to be subsumed within the criminal domain call for careful and principled scrutiny. These issues cannot be approached mechanically or in isolation; they demand a calibrated assessment, mindful of the settled limits of criminal law, the constitutional framework governing policy formulation and elections, and the degree of legal suspicion required at the stage of charge.

1044. **It is clarified that the issues discussed hereafter are not being taken as factors that have weighed with the Court while examining the material placed by the investigating agency. The record has been assessed strictly on the basis of the settled principles applicable at this stage, and the conclusion rests on that independent evaluation.**

1045. These issues were raised by the defence during the course of hearing. Since the submissions on behalf of the State have already been dealt with in detail, it is only appropriate to briefly deal

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with these aspects as well. They are being noted to ensure that the discussion is complete. In a matter involving an extensive record and lengthy arguments, it would not be proper to leave such issues unaddressed. The ultimate conclusion is not dependent upon these aspects. They are mentioned only so that the consideration of the case remains full and balanced.

(i) Intrusion into the Election Expenditure Domain — Separation of Powers and Electoral Federalism.

1046. At the threshold, this Court considers it imperative to underscore that the constitutional scheme governing elections in India is consciously structured to insulate the electoral process from executive or investigative intrusion, save in strictly defined and constitutionally sanctioned circumstances. Article 324 of the Constitution of India vests in the Election Commission of India (ECI) the plenary power of superintendence, direction and control over elections, not as a matter of administrative convenience, but as a core constitutional safeguard designed to preserve the purity, neutrality, and credibility of the democratic process. This entrustment assumes heightened significance in the context of election campaigns, where allegations and counter-allegations of financial impropriety are an inevitable by-product of political contestation. The Constitution, fully cognisant of this reality, deliberately places such disputes within the supervisory competence of an independent constitutional authority, rather than the executive or its investigative arms.

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1047. The Representation of the People Act, 1951 reinforces this constitutional design by constituting a complete and self-contained code in respect of election expenditure. Sections 77 and 78 regulate the incurring and accounting of expenditure; Section 10A prescribes disqualification for failure to lodge a true and correct account; and Section 123(6) treats expenditure in excess of prescribed limits as a corrupt practice, remediable exclusively through an election petition under Sections 80 and 100 of the Act. The statutory architecture leaves no ambiguity: alleged breaches of expenditure norms are, in the first instance, electoral wrongs, not criminal offences, and are to be scrutinised by the Election Commission and adjudicated by the High Court exercising election jurisdiction.

1048. The Act does not envisage, indeed, it consciously excludes, the routine or unilateral invocation of criminal machinery at the behest of rival political actors. This demarcation serves a foundational democratic purpose. If investigative agencies such as the CBI or enforcement authorities under the Prevention of Money Laundering Act, 2002 (PMLA) were permitted to enter the electoral arena merely on allegations of *"cash spending"*, *"illegal funding"*, or *"unaccounted expenditure"*, the inevitable consequence would be the criminalisation of electoral competition. Such an approach would arm the executive with coercive instruments capable of influencing

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political outcomes, thereby eroding the level playing field that lies at the heart of free and fair elections.

1049. When such allegations are sought to be re-characterised or *"dressed up"* as CBI cases or PMLA proceedings, an additional and more serious constitutional concern arises. The CBI has no inherent jurisdiction to investigate any offence; its authority flows solely from the Delhi Special Police Establishment Act, 1946, and may be exercised only upon State consent, Central Government notification, or a specific judicial direction, as authoritatively held by the Constitution Bench in **State of West Bengal v. Committee for Protection of Democratic Rights, (2010) 3 SCC 571**. Election-funding disputes, absent disclosure of a distinct and independent penal offence, do not automatically satisfy this jurisdictional threshold.

1050. To permit the CBI to independently assume jurisdiction over election-expenditure allegations would amount to the executive arrogating to itself a supervisory role over elections, a role which the Constitution has consciously and expressly denied to it. The position is no different, and indeed more restrictive, under the PMLA. The statute cannot be set in motion in a vacuum. It is predicated on the prior existence of a scheduled offence and the generation of "proceeds of crime" therefrom. Allegations of excess election expenditure, cash usage, or undeclared campaign spending do not, by themselves, constitute scheduled offences under the PMLA. It abundantly clear

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that allegations of *"hawala"* or cash transactions, unaccompanied by independent, legally admissible evidence establishing the illegality of the source and its nexus with a defined offence, cannot sustain criminal prosecution. {Reliance is placed upon *V.C. Shukla (supra)*}.

1051. This Court must also emphasise the rule of law dimension inherent in this constitutional arrangement. The rule of law demands that each constitutional actor operate within its assigned sphere. The Election Commission, as a constitutionally created and insulated body, is entrusted with maintaining electoral discipline and fairness. Investigative agencies, which form part of the executive, cannot be permitted to displace or supplant this constitutional authority by assuming functions that the Constitution has reserved for the ECI and the election courts. Any such substitution would not merely be irregular; it would represent a fundamental distortion of constitutional governance, undermining both democratic accountability and institutional balance. This Court therefore observes that Article 324 entrusts the Election Commission with the discretion to determine whether and when any matter warrants reference to investigative agencies. It is only upon such constitutionally anchored scrutiny, where material discloses a clear, standalone criminal offence, independent of election-law violations, that involvement of agencies like the CBI or the Enforcement Directorate may be contemplated. To permit investigative agencies to act independently, without such

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referral or without disclosure of a legally cognisable scheduled offence, would be to invert the constitutional hierarchy, reducing the Election Commission to a peripheral observer in a domain where it is meant to be supreme.

(emphasis supplied)

1052. Accordingly, this Court holds that investigations by the State police, the CBI, or the Enforcement Directorate cannot be initiated or sustained solely on allegations of election-funding irregularities and excess expenditure. The exclusive prerogative to examine such allegations, at least at the threshold, lies with the Election Commission of India, and the statutory remedy of an election petition under the Representation of the People Act, 1951 remains the primary judicial avenue for adjudication. Criminal law, and particularly the extraordinary and coercive regimes of the PC Act and the Prevention of Money Laundering Act, cannot be employed as a substitute for election-law remedies, nor as a device to convert political accusations into prosecutable offences, unless a clear, independent, and cognisable criminal offence, wholly distinct from election-law violations, is prima facie disclosed in accordance with law. Any attempt to do otherwise would strike at the very core of constitutional democracy, erode the rule of law, and imperil the neutrality and fairness of the electoral process itself.

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(ii) Policy Deviation or Commercial Advantage, Without Proof of Mens Rea or Quid Pro Quo, Does Not Give Rise to Criminal Liability:

1053. The issue that falls for consideration is whether an individual or a company alleged to have engaged in cartel-like conduct or practices said to result in monopolisation-acts asserted to run contrary to the objectives of the DEP-21/22-can, on that foundation alone, be exposed to criminal prosecution. The answer must be in the negative. A deviation from policy intent, or the securing of a commercial advantage within the contours of the policy framework, does not, by itself, attract criminal liability. Prosecution under the IPC, the PC Act, or any other penal statute requires the presence of specific acts satisfying the statutory ingredients of an offence. The consequences flowing from such conduct ordinarily lie in the regulatory and administrative sphere. These may include cancellation or suspension of licences, withdrawal of policy-based privileges, imposition of penalties, or recovery of undue gains realised contrary to the terms of the licence or the policy. These are matters governed by administrative and contractual principles regulating the relationship between the State and the licensee, and not by the criminal law.

1054. Experience shows that whenever the Government revisits or restructures a regulatory regime, particularly in sectors moving towards public-private participation or increased private involvement, industry participants may seek to take advantage of

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perceived gaps or flexibilities in the policy. Even if such attempts appear commercially opportunistic, they do not, without more, amount to criminality. Criminal culpability can arise only where the material discloses clear elements of fraud, forgery, bribery, quid pro quo, misappropriation, collusive abuse of official position, or any other act squarely covered by a penal provision. In **BALCO Employees' Union v. Union of India, (2002) 2 SCC 333,** the Supreme Court emphasised that economic decisions taken by the Government, even when they benefit private entities or lead to concentration of economic power, cannot invite criminal consequences unless mala fides or statutory breach is demonstrated.

1055. Mere financial loss to the State or commercial gain to a private party does not furnish a basis for criminal prosecution in the absence of evidence of corruption or unlawful enrichment. Even if a policy does not yield the desired outcome or because a private participant secures an advantage from operating within the policy framework.

1056. The threshold for invoking criminal jurisdiction remains the existence of a culpable act that falls within the four corners of a penal statute; anything short of that is a matter for administrative regulation and not criminal adjudication.

(iii) Policy Formulation, Reform, and the Limits of Criminal Prosecution

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1057. The formulation, modification, or substitution of a public policy falls exclusively within the constitutional prerogative of the elected Legislature and the Executive. It is for these branches of Government to undertake an assessment of the prevailing circumstances, to weigh the strengths and weaknesses of the existing regime, to examine the lacunae that may have surfaced over time, and to determine whether a shift in policy is warranted in the larger interest of governance. Any such policy, whether newly introduced or revised, is subject to scrutiny in the democratic forums of Parliament or the State Legislature, where its objectives, effectiveness, advantages, limitations, and economic implications are debated and evaluated. These are the proper constitutional fora to decide whether a policy meets the socio-economic needs of a rapidly developing nation.

1058. When matters squarely falling within this domain are thereafter viewed through a preconceived prism of conspiracy or presumed criminal intent, merely because complaints are drafted in a manner that casts aspersions on the new framework, often at the behest of those who had benefitted from the flaws of the earlier regime, it inevitably hampers the legitimate functioning of the State. Such an approach deters reform and discourages innovation in governance. A developing economy cannot afford a situation where bona fide policy choices are second-guessed as criminal ventures in the absence of any

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statutory foundation or material demonstrating the essential ingredients of an offence.

1059. Investigating agencies are not vested with, nor can they assume, the role of evaluating the economic wisdom, administrative soundness, or policy rationale of decisions taken by the competent executive authorities. Their statutory mandate is confined to investigating offences defined by law; it does not extend to examining whether a policy should or should not have been adopted. The initiation of criminal proceedings merely because a policy may have conferred incidental commercial advantage upon a private entity would amount to an impermissible conflation of policy outcomes with criminal culpability. Treating every consequence of a policy as potential evidence of wrongdoing not only distorts the legal framework but also threatens to paralyse the very process of governance. Such an approach creates an environment of apprehension among officials who act in good faith and in accordance with established procedure under the directions of the political executive.

1060. Public administration cannot function in an atmosphere where officials are perpetually exposed to the risk of criminal prosecution for decisions taken within the authority of law, particularly when no element of mens rea or abuse of office is discernible. It is

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essential for a developing nation that officers are afforded freedom from unwarranted harassment so that they may perform their duties with confidence and without fear. In the larger constitutional scheme, policymaking must remain insulated from investigative overreach. The criminal law cannot be invoked to substitute legislative debate, nor can it be converted into a tool to challenge the efficacy or correctness of policy. {Reliance is placed upon the judgment of Hon'ble Supreme Court in **BALCO Employees' Union (supra)**}. Stability, certainty, and an assurance that honest administrative decisions will not be retrospectively subjected to criminal scrutiny are indispensable to the advancement of national development and the faithful implementation of executive decisions.

FINAL OUTCOME AFTER EVALUATION

1061. Upon examining the investigation in its sequential progression, this Court finds that the overall direction adopted by the investigating agency gives rise to a serious and legitimate concern touching upon the fundamentals of the rule of law and constitutional governance.

1062. The investigation does not commence with the identification of essential ingredients to attract criminal offence, nor with the collection of legally admissible material demonstrating criminality in the formulation or execution of the DEP-21/22. Instead,

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the investigation appears to alter its focus mid-course and proceeds in an ever-expanding sweep, seemingly driven by the question of who all can be brought within its fold. The investigative trail begins with a campaign-related company, then moves through small vendors and intermediaries, thereafter to angadiyas who admittedly operate organised cash-transfer networks, followed by house owners, hotel operators, political volunteers, contesting candidates, State-level office-bearers, and ultimately the national leadership. This widening arc does not appear to be founded on fresh or independent incriminating material emerging at each stage, but rather on a preconceived assumption of the existence of *"proceeds of crime"*, coupled with an apparent attempt to demonstrate that no segment has been left untouched in the purported effort to trace such proceeds.

1063. A particularly troubling feature of this approach is the manner in which angadiyas are dealt with. Individuals who openly acknowledge operating systematic cash-movement syndicates are not proceeded against as accused, but are instead converted into prosecution witnesses. Their largely uncorroborated and self-serving statements are then employed to implicate persons placed progressively higher in the alleged chain. Such selective attribution of culpability inevitably weakens the evidentiary foundation and indicates an investigation structured to sustain a predetermined

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narrative rather than one guided by impartial and objective fact-finding.

1064. More fundamentally, the investigation strays into the constitutionally demarcated domain of election expenditure. By scrutinising campaign logistics, accommodation arrangements, political volunteers, and alleged cash payments, the investigating agency, in substance, undertakes a self-conducted audit of election spending. This field falls within the exclusive constitutional jurisdiction of the Election Commission of India. The assumption of such a role by an investigating agency amounts to an exercise of power not vested in it by law and runs contrary to the carefully balanced constitutional framework.

1065. The implications of this approach are not merely legal, but constitutional in character. The rule of law requires that criminal investigation be anchored to clearly defined offences, follow a legally sanctioned sequence, and remain confined within jurisdictional limits. Constitutionalism demands that investigative power be exercised with restraint, sensitivity, and respect for institutional boundaries. An investigative environment that generates fear, where scrutiny travels indiscriminately from contesting candidates to small vendors who merely provide logistical support during elections, risks chilling legitimate political participation. In such an atmosphere of pervasive

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apprehension, the foundational guarantee of free and fair elections stands imperilled.

1066. The concern, therefore, is not with isolated investigative acts, but with a methodology that reverses the settled legal sequence, blurs constitutional boundaries, and risks converting criminal investigation into an instrument of overreach. Acceptance of such an approach would undermine the discipline of criminal law, erode constitutional safeguards, and strike at the very foundations of democratic governance.

1067. This Court considers it necessary to record that the present matter has posed an exceptional degree of difficulty in the formation of a prima facie opinion for the limited purpose of considering the framing of charge. Ordinarily, it is expected that upon examining the statements of a few material witnesses, some indicative circumstance may surface which, when taken at face value, could lend support to the allegations set up by the prosecution. Guided by that expectation, the Court undertook a sequential appraisal of the statements. However, it soon became apparent that no such material emerged at any intermediate stage, compelling the Court to undertake a comprehensive examination of the statement of each witness until the very last. What stands out on such scrutiny is the conspicuous absence of any fact or circumstance which could legitimately give rise to even a foundational suspicion, much less a prima facie inference, of

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the commission of the offences imputed to the accused persons. The investigation, as reflected in the charge-sheet and the accompanying documents, has not succeeded in disclosing a chain of events which satisfies even the minimal threshold required under law for proceeding to frame a charge. To the contrary, the contemporaneous record, including the movement of files, the notings recorded at various levels, and the manner in which the Technical Evaluation Committee discharged its functions, demonstrates that the formulation of the DEP-21/22 was undertaken through the established administrative channels and in furtherance of the objectives expressly set out therein.

1068. The documentation reveals due adherence to the procedural safeguards and institutional checks embedded in the Transaction of Business framework, leaving no room to infer any clandestine departure from the prescribed process. In these circumstances, and having regard to the settled position that the Court at this stage must ascertain whether the material placed on record, if unrebutted, would constitute the ingredients of the alleged offences, it becomes evident that the present record falls substantially short of that requirement.

1069. The criminal process undoubtedly vests wide discretionary powers in the investigating agency, including the authority to array a person as an accused, to tender pardon and

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examine an accused as an approver, or, in appropriate cases, to examine a person merely as a witness. These powers are recognised as legitimate procedural instruments intended to facilitate effective investigation and assist the Court in its truth-finding function. Their conferment, however, does not place them beyond the controlling disciplines of fairness, proportionality, reasonableness and constitutional conscience. At the core of criminal investigation lies a delicate equilibrium between investigative efficiency and substantive justice, and the power to transform an accused into an approver is a carefully circumscribed exception to the ordinary rule of prosecution, justified only as a means to secure truthful disclosure of otherwise concealed facts. When exercised mechanically, selectively or with an oblique purpose, this power ceases to operate as an aid to justice and instead undermines both the fairness of the process and the credibility of the outcome.

1070. A grave concern arises when a person who appears, on a prima facie appraisal, to be a principal or first-degree participant in the alleged offence is granted pardon and projected as an approver. The jurisprudential rationale underlying the approver mechanism is that a participant of comparatively lesser culpability may be pardoned to expose graver criminality. If this logic is inverted, by insulating one of the alleged architects or central actors of the offence and proceeding against others primarily on the strength of his statement, the

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investigative process itself becomes inherently suspect. In the present case, PW-20, approver Dinesh Arora, is projected as a key conspirator, allegedly involved not merely in facilitation but even in execution of the alleged offence, rendering the selection of an approver vulnerable to serious scrutiny. Justice is not served when culpability is re-engineered to suit investigative convenience rather than determined on the basis of objective truth.

1071. This concern is structurally aggravated by the incentives inherent in approver status. A person tendered pardon does so with a legitimate expectation of immunity and personal liberty. When such expectation is reinforced by non-opposition to bail or conduct suggestive of assured leniency, the approver's statement inevitably falls under a cloud of suspicion. The risk of conscious or subconscious tailoring of the narrative to align with the prosecution theory is not speculative but intrinsic to the very nature of the bargain. In such circumstances, the approver risks degenerating from a source of truth into a conduit for the investigative narrative.

1072. The statutory and regulatory framework reinforces this caution. Section 306(4) of CrPC embodies a clear legislative intent that an approver, until examined as a witness, should ordinarily remain in judicial custody. This requirement is not punitive but prophylactic, intended to insulate the approver from external influence, prevent tutoring or inducement, and preserve the spontaneity and authenticity

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of disclosure. This safeguard is mirrored and strengthened by Rules 5 and 8 of Chapter 14 of the Delhi High Court Rules and Orders. Rule 5 recognises that the statement of an approver, being that of an accomplice, is prima facie of a tainted character and cannot be acted upon unless corroborated in material particulars, the nature and extent of such corroboration depending upon factors such as the nature of the crime, the character of the approver's evidence and the degree of his complicity. Rule 8 operates as the procedural complement by mandating that an approver, after acceptance of pardon, should be kept in judicial custody until the termination of the trial, thereby safeguarding the conditions under which such statement is tendered.

1073. This dual safeguard stands authoritatively affirmed by the Supreme Court in **Suresh Chandra Bahri v. State of Bihar (1995 Supp (1) SCC)**, wherein it was categorically held that keeping an approver in custody is founded on statutory principles of public policy and public interest, the violation of which cannot be tolerated. While the Court clarified that an erroneous release of an approver on bail may not invalidate a pardon once validly granted, it simultaneously underscored that such deviation directly impinges upon the credibility and evidentiary worth of the approver's statement. Read harmoniously, therefore, Rule 5 and Rule 8 function in tandem: Rule 5 governs the weight that approver statement may carry by insisting on independent corroboration on material particulars, while Rule 8

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governs the conditions under which such statement is to be given, so as to prevent contamination at its source.

1074. Contemporary investigative realities further weaken any justification for disproportionate reliance on approver statement. Before elevating a co-accused to the status of an approver, investigative fairness demands that his version be subjected to rigorous preliminary scrutiny against such independent material. Scientific and psychological tools such as polygraphic and lie detection test, when employed strictly within constitutionally permissible and legally regulated bounds, may serve as ancillary aids in assessing whether the disclosure is prima facie truthful or merely self-serving.

(emphasis supplied)

1075. Procedural fairness also demands institutional symmetry: if a person's statement is sufficient to treat him as an accused, the converse decision to pardon him must be supported by demonstrable reasons grounded in relative culpability and evidentiary necessity. The differential treatment of PW-125 (Magunta Srinivasan Reddy) and PW-126 (Raghav Magunta Reddy), coupled with non-opposition to bail, illustrates how selective indulgence, unsupported by a reasoned distinction in role or responsibility, erodes public confidence in the fairness of the criminal process.

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1076. Ultimately, criminal investigation is not a competitive exercise aimed at securing convictions at any cost. It is a constitutionally informed, truth-seeking function governed by the rule of law. The approver mechanism, when misapplied, carries the grave risk of shielding the guilty while imperilling the innocent. Any departure from the twin disciplines of substantive corroboration and procedural custody undermines the integrity of the approver mechanism and substantially weakens the probative value of such statement, even at the threshold stage of consideration of charge. In the long run, adherence to procedural fairness is not an impediment to effective investigation; it is the sole assurance that the criminal process will culminate in justice that is real, credible and enduring.

ORDER

1077. Upon an exhaustive and painstaking examination of the entire record, undertaken over a period exceeding two months, encompassing voluminous documentary material and the depositions of nearly three hundred prosecution witnesses, and after affording full opportunity of hearing to the parties, this Court is left in no manner of doubt that the prosecution case does not disclose even the threshold of a prima facie suspicion, far less the "grave suspicion" mandated by settled principles of criminal jurisprudence for proceeding further. The Excise Policy case, as sought to be projected by the CBI, is wholly

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unable to survive judicial scrutiny and stands discredited in its entirety. While it is to the credit of the investigating agency that it has placed reliance upon the statement of its own witnesses even when such evidence runs contrary to the prosecution's foundational allegations, the cumulative effect of that very evidence demolishes, rather than supports, the case sought to be built. To compel the accused to face the rigours of a full-fledged criminal trial in the stark absence of any legally admissible material connecting them to the alleged offences would not serve the ends of justice; it would instead constitute a manifest miscarriage of justice and an abuse of the criminal process, offending the most basic tenets of fairness and the rule of law.

1078. The alleged conspiracy, from its very inception, has progressively unravelled and, upon close scrutiny, is revealed to be nothing more than a speculative construct resting on conjecture and surmise, devoid of any admissible evidence. The investigation, when tested against the material collected by the agency itself, reflects a fundamental failure to properly appreciate, evaluate, or draw lawful inferences from the evidence and documents on record. As a result, the prosecution case is rendered legally infirm, unsustainable, and unfit to proceed any further in law. Stated differently, this Court records that the theory of an overarching conspiracy, so emphatically projected, stands completely dismantled when tested against the evidentiary record.

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1079. Upon consideration of the entire material placed on record, this Court is of the considered view that the prosecution has failed to place any material which, even prima facie, suggests that the DEP-21/22 was manipulated, altered, or engineered to confer any undue or unlawful benefit upon any private individual or the so-called *"South Group"*. **On the contrary, the contemporaneous record clearly establishes that the policy was the outcome of a consultative and deliberative exercise, undertaken after engagement with relevant stakeholders and in adherence to the procedure prescribed under law. Though there was no statutory or constitutional requirement mandating the obtaining of suggestions from the Hon'ble Lieutenant Governor, the file notings unmistakably reflect that such suggestions were nevertheless sought, examined, and incorporated. The procedural integrity of the policy-making process thus stands affirmed from the documentary record itself**.

(emphasis supplied)

1080. Once the formulation of the policy is shown to be the product of deliberation, institutional scrutiny, and procedural compliance, any subsequent attempt to attribute criminality to its implementation becomes wholly untenable. The very foundation on which the prosecution seeks to construct the narrative of conspiracy, centred around alleged payment of *"upfront money"* and its purported recoupment, stands fundamentally eroded. **In the absence of a tainted**

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policy or demonstrably unlawful implementation, the prosecution theory is reduced to conjecture. Private persons who sought to derive commercial advantage from a policy validly framed and lawfully implemented, without any established violation of policy conditions or statutory prohibitions, cannot be compelled to face the rigours of criminal prosecution. This Court finds no apparent breach of restrictions relating to *"related entities"* or any other policy condition which could, by itself, attract criminal liability.

1081. The allegations concerning payment of upfront money and its alleged recoupment are equally devoid of legal substratum. De hors any material indicating manipulation in policy formulation or corruption in implementation, such allegations fail to sustain. Even otherwise, upon independent scrutiny, this Court finds that the entire alleged chain of payments rests predominantly on so-called pauti entries of Angadia firms, documents which are inadmissible in law, and on approver-like statement which remains uncorroborated on material particulars. These infirmities are not peripheral; they strike at the very root of the prosecution case and render it unsustainable even at the threshold stage.

1082. **At this stage, it must be emphasised that however elaborate the investigative exercise may be, and however carefully the narrative is sought to be constructed, the discipline imposed by the Indian Evidence Act cannot be diluted or deferred merely because**

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the matter is at the stage of charge. The principles embodied in the Evidence Act are time-tested safeguards evolved through long-settled jurisprudence, designed to assist courts in discovering the truth and testing the authenticity of allegations even at the preliminary stage. In the present case, these principles have operated as the governing framework. When the material relied upon by the prosecution is tested on the touchstone of admissibility, relevance, and probative value, the appearance of a coherent conspiracy dissolves, exposing the allegations to be founded on inadmissible material and post-facto reconstruction.

1083. A cumulative appraisal of the record further reveals an investigative approach marked by an attempt to stitch together disparate fragments so as to create an impression of a vast and complex conspiracy, unsupported by legally admissible material. The investigation appears to have proceeded on a predetermined trajectory, implicating virtually every person associated with the formulation or implementation of the policy in order to lend an illusion of depth and credibility to an otherwise fragile narrative. The endeavour to further connect such allegations to the Goa Assembly elections, so as to project, layering, and utilisation of alleged proceeds of crime, rests more on inference and assumption than on legally sustainable material.

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1084. The settled principles of evidence law exist precisely to ensure that criminal liability is founded on legally admissible material capable of giving rise to a sustainable inference, and not on conjecture, or investigative imagination. When the material on record is examined on this time-honoured touchstone, the prosecution case fails to disclose even a prima facie case, far less the grave suspicion required at the stage of framing of charge. The prosecution has thus failed to cross the minimum threshold mandated by law.

1085. **In view of the foregoing discussion and the reasons recorded hereinabove, this Court has no hesitation in holding that the material placed on record does not disclose even a prima facie case, much less any grave suspicion, against any of the accused persons. Accordingly, Accused Nos. A-1 to A-23 are discharged of all the offences alleged against them in the present case.**

Issues Warranting Judicial Notice Despite Discharge of the Accused Persons

1086. Notwithstanding the discharge of all the accused persons, the record still reflects certain matters of concern which ought not to remain unnoticed. Recently, in **Dr. Anand Rai v. State of Madhya Pradesh and Another, 2026 SCC OnLine SC 187**, the Hon'ble Supreme Court once again emphasised the responsibility that rests upon a Trial Court at the stage of framing of charge. It was observed that no individual should be compelled to face a criminal trial unless

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the material on record, even if taken at face value, discloses the essential ingredients of the alleged offence. To require an accused to undergo trial in the absence of such foundational material is to expose him to the strain, stigma and prolonged uncertainty that accompany criminal proceedings, without legal justification.

1087. The Supreme Court also reminded courts that fidelity to the rule of law demands vigilance at this stage. If criminal proceedings are permitted to continue without adequate basis, the process itself may become punitive. A Trial Court, while exercising jurisdiction at the threshold, must therefore remain mindful of the human consequences of its orders and of the trust that society places in it. The relevant extract is reproduced below for ready reference:–

> *"..21. Before parting with the matter, it is observed that at the stage of framing of charge or consideration of discharge, the Court is not engaged in an abstract legal exercise. It is concerned with real individuals, real anxieties, and the tangible burden of criminal prosecution. The responsibility cast upon the Court at this juncture demands circumspection, balance, and a candid evaluation of the material on record. The power to frame a charge is not to be exercised mechanically or merely by way of abundant caution. Where the material placed before the Court, even if taken at its face value, fails to disclose the essential ingredients of an offence, the law expects the Court to state so with clarity and to decline to subject the accused to trial."*

1088. Keeping these principles in view, and bearing in mind the duty cast upon the Trial Court at this stage, it becomes necessary

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to address certain core issues so that the jurisdiction is exercised with due care and in faithful discharge of that responsibility.

(i) Fair Investigation and Procedural Integrity in Light of Article 21 of the Constitution of India and International Covenant on Civil and Political Rights Obligations

1089. At the very threshold of the defence arguments, learned counsel appearing for each of the accused persons had assiduously drawn the attention of this Court to the manner in which the statement of the approver, Dinesh Arora, came to be recorded repeatedly under Section 161 of Cr.P.C., on at least four occasions, after his statement under Section 164 of Cr.P.C., on the basis of which pardon had been granted to him. At that stage, the said submission did not appear to weigh substantially with this Court.

1090. However, upon a holistic scrutiny of the entire record, and after this Court reached the conclusion that the prosecution case, as presented in the charge-sheet, rests largely on surmises, conjectures, and inferential leaps unsupported by cogent material, the aforesaid submission assumes decisive significance. What initially appeared to be a routine or peripheral objection now stands revealed as an issue going to the very root of fair investigation and the administration of criminal justice.

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1091. This Court is constrained to observe that the present case does not admit of such a lapse being brushed aside as a mere irregularity. If such a practice is permitted to pass without judicial scrutiny, it carries the grave potential of setting an unhealthy precedent, effectively normalising a method whereby an investigating agency, after securing pardon on the professed premise of a *"full and true disclosure"*, continues to repeatedly re-record statements of the approver over an extended period, ostensibly to fill gaps, improve the prosecution narrative, implicate additional accused, or artificially weave missing links in the chain of circumstances.

1092. The concern is aggravated by the fact that the investigating agency has offered no explanation whatsoever as to why it found it necessary to record the statement of the approver under Section 161 of Cr.P.C. repeatedly, and that too over a span of nearly one and a half years, extending till the filing of the last supplementary charge-sheet. The record is conspicuously silent on any exceptional circumstance warranting such a course. This unexplained conduct reflects a disturbing departure from the settled legal principles governing the grant of pardon.

1093. The very foundation of pardon rests on the prosecution's representation to the Court that the approver has made a full, voluntary, and truthful disclosure of all material facts within his knowledge. Once such disclosure is accepted and pardon is granted,

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the investigative discretion of the agency stands correspondingly circumscribed. The law does not contemplate a situation where an approver, having obtained the extraordinary indulgence of pardon, is thereafter subjected to repeated statement-recording under Section 161 of Cr.P.C. so as to incrementally refine, expand, or reshape the prosecution case.

1094. Such an approach strikes at the core of the concept of pardon and undermines the sanctity of the judicial satisfaction recorded at the stage of its grant. It gives rise to a legitimate apprehension that the approver's subsequent statements are not the product of spontaneous disclosure, but of a prolonged and iterative process calibrated to suit the evolving requirements of the prosecution.

(emphasis supplied)

1095. This Court is not embarking upon an examination of each and every statement of the approver, PW-20, recorded under Section 161 of Cr.P.C., whether prior to or subsequent to the recording of his confessional statement under Section 164 of Cr.P.C.. However, while adverting to the last statement under Section 161 of Cr.P.C., recorded on 17.10.23 which forms part of the additional statements expressly relied upon by the investigating agency, this Court is taken by surprise to find an allegation relating to the delivery of an amount

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of ₹1 crore stated to have been handed over to one Sarvesh Mishra acting on behalf of Sanjay Singh.

1096. What causes serious disquiet is that the name of Sanjay Singh does not find mention in the main charge-sheet or in any of the four supplementary charge-sheets. There is no allegation anywhere on the record attributing to Sanjay Singh any role, direct or indirect, in the formulation, approval, or implementation of the DEP-21/22. While this Court does not, at this stage, propose to enter into the merits of the said allegation, its very emergence at such a belated stage is indicative of the manner in which the approver's statements have been utilised during investigation.

1097. The record reveals that the approver, who has been examined on multiple occasions over an extended period of more then 1 year, has come forth with this new allegation only in the course of his later statements. This lends credence to the apprehension that with each successive examination, fresh assertions are introduced to rope in persons against whom no foundational material otherwise exists. The approver appears to have been projected as an all-encompassing source for the prosecution narrative, such that on one occasion he introduces an entirely new allegation, and on another, seeks to supply explanations to fill links that are otherwise conspicuously absent in the evidentiary chain.

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1098. It is a settled principle of criminal jurisprudence that the statement of an approver is inherently suspect and is to be received with great caution. Yet, the approach adopted by the investigating agency in the present case reflects a marked departure from this well-established rule. The statements of the approver have been elevated and treated as though they constitute unimpeachable truth, and have been uncritically incorporated as relied-upon material forming the backbone of the prosecution case.

1099. Needless to observe, once a confession purporting to be a full and true disclosure is recorded and accepted for the grant of pardon, the premise on which such pardon rests cannot be permitted to stand diluted. The repeated examination of the approver over a period of one year, ostensibly to elicit further statements, itself demonstrates that what was projected as a complete disclosure gradually devolved into a series of incomplete and evolving versions. This aspect has been noted only to underscore the manner in which the investigation has proceeded in the present case, and the weight that has been placed on the shifting statements of the approver.

1100. This Court remains conscious of the need to exercise restraint while commenting upon the conduct of the investigating agency. Ordinarily, courts refrain from making observations that may be perceived as indictments of investigative discretion. However, there are situations where the lapses are so fundamental that judicial silence

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would itself amount to abdication of duty. Where the exercise of power, though ostensibly within jurisdiction, results in the dilution of statutory safeguards and erosion of foundational principles of criminal jurisprudence, the Court cannot remain a mute spectator.

1101. In the considered view of this Court, the manner in which the investigating agency has proceeded, by repeatedly recording the statements of the approver without justification and over a prolonged duration, reflects an exercise of discretion that cannot be characterised as fair or reasonable. If left unchecked, such conduct risks converting the exceptional mechanism of pardon into an instrument for narrative construction rather than truth discovery, thereby causing serious prejudice to the accused and eroding confidence in the criminal justice process.

(emphasis supplied)

1102. Ignoring or glossing over such infirmities would, in the considered opinion of this Court, itself result in a miscarriage of justice. The guarantee of life and personal liberty under Article 21 of the Constitution of India is not confined to protection against unlawful detention alone, but necessarily encompasses the right to a fair and just investigation. Fairness in investigation is a constitutional mandate that restrains the exercise of State power and operates as a safeguard against arbitrary or capricious prosecutorial conduct.

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1103. This constitutional guarantee is further reinforced by India's international obligations under the **Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, to which India is a signatory**. Article 14 of the Covenant obligates the State to ensure equality before courts and tribunals, a fair and public hearing, and procedural fairness in criminal proceedings, while Article 15 prohibits the imposition of criminal liability except in accordance with law and recognised principles of criminal justice. These provisions collectively underscore that criminal prosecution must remain anchored in legality and procedural integrity, and must not be shaped or retrofitted through investigative practices that compromise fairness.

1104. An investigation that departs from transparency, consistency, and procedural discipline, particularly by repeatedly re-recording statements of an approver after the grant of pardon without any disclosed justification, does not merely affect evidentiary appreciation, but strikes at the heart of these constitutional and international guarantees. **Where investigative discretion is exercised in a manner that erodes the presumption of innocence or dilutes the sanctity of a judicially granted pardon, the process itself assumes a punitive character, impermissible in a constitutional democracy governed by the rule of law.**

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1105. In such circumstances, judicial intervention is not a matter of choice but of constitutional obligation. **This Court is duty-bound to ensure that criminal law remains an instrument of justice and not a means of inflicting injustice, and that the promise of liberty under Article 21, read in harmony with India's international human-rights commitments under the ICCPR, is preserved in both letter and spirit**.

(ii) Segregation of Relied and Unrelied Documents: To Uncover the Truth and Safeguard a Fair Trial

1106. At the stage of consideration of charge, particularly in prosecutions under the PC Act and in connected proceedings under the Prevention of Money Laundering Act, the question of classification and supply of documents assumes substantial significance. The prosecution is obliged to furnish copies of the documents upon which it relies and to provide inspection along with a list of documents not relied upon. While this arrangement satisfies procedural requirements, its practical impact at the stage of charge calls for closer examination.

1107. At this stage, the Court is confined to the material placed by the prosecution. The accused has no right to rely upon his own documents, nor can he summon documents that form part of the unrelied record. Consequently, even where inspection of unrelied documents is permitted, the defence is not in a position to effectively invoke such material while the Court determines whether a case is

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made out for trial. In effect, the Court's scrutiny remains restricted to what the prosecution chooses to place in the category of relied documents. This concern becomes particularly acute in cases of a voluminous nature, where trials may extend over several years.

1108. The issue becomes clearer by way of illustration. Suppose a person is accused of committing a murder in Delhi by firing a gunshot. He is arrested in Lucknow. During investigation, the police seize from his residence a digital device containing CCTV footage showing his presence at home at the relevant time. The footage supports a plea of alibi. If the investigating agency, instead of sending the device for forensic examination and placing the material before the Court as part of the relied documents, merely includes it in the list of unrelied documents without analysis, the consequences are serious. At the stage of charge, the accused cannot summon that material. The Court would be compelled to assess the prosecution case without considering evidence already in the custody of the State that may directly bear upon innocence. The accused would then have to await the stage of defence evidence to seek its production, by which time charges would already have been framed on an incomplete record.

1109. Such a course affects the very foundation of a fair procedure. Investigation is not a process of gathering only incriminating material; it is an effort to uncover the truth. Every document collected during investigation must be examined objectively before any decision is

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taken to classify it as relied or unrelied. Segregation must follow due scrutiny; it cannot precede it. Fair trial requires that the investigating agency assess the evidentiary value and relevance of each document in a balanced manner.

1110. Where a document of apparent probative value, particularly one capable of assisting the accused, is placed in the unrelied category, reasons for such a decision ought to be recorded. The recording of reasons ensures that exclusion of material is based on a conscious and reasoned determination rather than expediency. It also enables the Court to satisfy itself that relevant material has not been withheld from consideration without justification. In the absence of such transparency, the classification of documents risks becoming a means of selective presentation.

1111. This Court has, on more than one occasion, noticed instances where documents emerging from the investigation, including those recovered from the accused, have been placed among unrelied documents despite their potential relevance. When material favourable to the accused is collected by the State and thereafter kept outside the Court's consideration at the stage of charge, the fairness of the process is inevitably brought into question.

1112. The purpose of investigation is to ascertain the truth, whether it supports the prosecution or assists the defence. The guarantee of a fair trial under Article 21 extends to every stage of the

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criminal process, including investigation and the manner in which material is presented before the Court. The distinction between relied and unrelied documents cannot be permitted to operate in a way that dilutes this guarantee.

1113. Before segregating documents into relied and unrelied categories, the investigating agency must undertake a comprehensive and objective examination of all material collected. **If, upon such examination, a decision is taken not to rely upon a particular document, the reasons for doing so should be clearly recorded. Such an approach alone ensures fairness, accountability, and fidelity to the fundamental objective of criminal law, the discovery of truth through a just and even-handed process**.

(iii) Use of the Phrase "South Group"

1114. The Court considers it necessary to place on record its concern with the repeated and deliberate use of the expression *"South Group"* by the investigating agency to describe a set of accused persons, ostensibly on the basis of their regional origin or place of residence. Such a nomenclature finds no foundation in law, does not correspond to any legally cognisable classification, and is wholly alien to the statutory framework governing criminal liability. It is equally significant that no comparable regional descriptor has been employed for the remaining accused persons; the prosecution narrative does not speak of any *"North Group"* or similar categorisation. The selective

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adoption of a geographically defined label is, therefore, plainly arbitrary and unwarranted.

1115. The concern is not confined to semantics. Region-based labelling carries an avoidable undertone and is capable of creating a prejudicial impression. It detracts from the settled requirement that criminal proceedings must remain dispassionate, evidence-centric, and insulated from extraneous considerations. In a constitutional order founded upon equality before law and the unity and integrity of the nation, descriptors rooted in regional identity serve no legitimate investigative or prosecutorial purpose and are manifestly inappropriate.

1116. This Court is conscious that the impugned expression has been repeatedly employed in successive charge-sheets and, for that limited reason alone, this Court has been constrained to refer to it while summarising and analysing the prosecution case. Such reference cannot, however, be construed as approval or endorsement of the terminology itself. The continued use of this label, despite the absence of any legally sustainable basis, carries a real risk of colouring perception, causing unintended prejudice, and diverting focus from the evidentiary material, which alone must guide adjudication.

1117. The impropriety of identity-based labelling is not a matter of abstract concern. It has received pointed judicial condemnation in comparative constitutional jurisprudence. **In United**

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States v. Cabrera, 222 F.3d 590 (7th Cir. 2000), the United States Court of Appeals for the Seventh Circuit treated the issue as going to the very root of a fair criminal trial, and went so far as to set aside the conviction itself on account of the repeated use of identity-based terminology by the prosecution and law-enforcement witnesses, where such identity had no bearing on the elements of the offence.

1118. The Court recorded its disapproval in unambiguous terms:

"The government's repeated references to the defendants as 'Dominican drug dealers' were improper.
The ethnicity or national origin of a defendant is not relevant to proving the elements of a crime.

Such references invite the jury to draw impermissible inferences based on nationality rather than evidence, and they risk appealing to bias rather than reason."

1119. Emphasising that this was not an isolated concern, the Court expressly cautioned the prosecution:

"We have warned prosecutors before that injecting ethnicity into a criminal trial, when it has no bearing on the issues being tried, is error.

Criminal trials must be about what the defendant did, not who the defendant is."

1120. The admonition was extended beyond prosecutorial argument to the conduct of law-enforcement officials themselves,

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recognising that prejudice can be introduced through investigative narrative and statement:

"The fairness and integrity of criminal trials are at stake if we allow police officers to make generalizations about racial and ethnic groups in order to obtain convictions.

People cannot be tried on the basis of their ethnic backgrounds or national origin."

1121. On this reasoning, the Court held that the continued and unnecessary emphasis on ethnic origin had irretrievably compromised the constitutional guarantee of a fair trial and concluded:

"Therefore, in order to protect Cabrera and Mulgado's due process and equal protection rights to a fair trial, we are compelled to reverse their convictions and remand."

1122. The principle that emerges is both clear and compelling. Identity-based labelling, whether by ethnicity, nationality, or regional origin, cannot be employed as a prosecutorial shorthand where such identity is irrelevant to the offence. Such labelling is not a mere irregularity of expression; it constitutes a constitutional infirmity capable of undermining the fairness of the proceedings themselves. The central message is categorical: criminal adjudication must rest on conduct proved by evidence, not on who the accused is or where he comes from.

(emphasis supplied)

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1123. In light of the above, the investigating agency is cautioned to exercise greater care, circumspection, and restraint in the choice of language while drafting charge-sheets and investigative narratives. Descriptions of accused persons must remain strictly neutral, evidence-based, and free from expressions that carry a stigmatic, divisive, or pejorative overtone. The continued use of such terminology bears directly upon the fairness of the criminal process and touches upon the guarantee of a just, fair, and reasonable procedure under Article 21 of the Constitution. Equally, the employment of descriptors founded on regional or identity-based distinctions, in the absence of any rational nexus with the alleged offence, is inconsistent with the constitutional command of equality and non-discrimination under Article 15. Persistence with such nomenclature risks undermining the due process of law and is best avoided in the interest of an impartial and constitutionally compliant administration of criminal justice.

(iv) Constitutional Significance:

1124. Before parting with the order, it becomes necessary for this Court to record a concern of considerable constitutional significance. This Court is increasingly confronted with a grave and recurring dilemma, wherein the liberty of an individual stands imperilled on account of prosecutions initiated under the Prevention of Money Laundering Act, 2002, premised upon a presumption that

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the alleged amount constitutes *"proceeds of crime"* arising out of a scheduled (predicate) offence. The issue assumes heightened significance where an accused is arrested for the offence of money laundering and is thereafter required to surmount the stringent twin conditions prescribed for the grant of bail, resulting in prolonged incarceration even at the pre-trial stage.

1125. It is noticed that, in several cases, the Enforcement Directorate proceeds to file a prosecution complaint primarily to obviate the statutory consequence of default bail, without the investigation in the scheduled offence having attained finality. In such situations, while the proceedings under the PMLA are set in motion, the investigation in the predicate offence continues to remain inconclusive, and in many cases even the filing of a charge-sheet therein is awaited. This Court itself is a witness to a case where the proceedings relating to money laundering have reached the final stage of arguments on charge, whereas, in the predicate offence, the investigation is still underway to determine whether any offence has been committed at all. It is also noteworthy that the accused persons in the PMLA case have remained in custody for a significant period. This anomalous situation gives rise to serious legal and constitutional concerns, as the continuation of proceedings under the PMLA remains contingent upon the very survival of the scheduled offence.

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1126. It has been categorically held by the Hon'ble Supreme Court of India in *Vijay Madanlal Choudhary v. Union of India*, (2022) 10 SCC 353, that where the predicate offence does not survive, whether on account of discharge, acquittal, quashing, denial of cognizance, or acceptance of a closure report, the offence of money laundering cannot independently subsist. The offence under the PMLA is thus not autonomous in its origin, but is inextricably linked to the existence of a legally sustainable scheduled offence. The predicate offence constitutes the foundational edifice upon which the allegation of money laundering rests; if the foundation crumbles, the superstructure must necessarily fall.

(emphasis supplied)

1127. Despite this settled legal position, the prevailing practice reveals a disturbing inversion of the statutory scheme, wherein coercive powers of arrest and prolonged custody are invoked even before the foundational facts relating to the scheduled offence are judicially tested. This results in a situation where an individual is deprived of personal liberty on the strength of an allegation whose legal sustainability remains uncertain and contingent upon a future outcome in a parallel investigation.

1128. The right to life and personal liberty guaranteed under Article 21 of the Constitution mandates that any deprivation of liberty must be just, fair, and reasonable, not merely in form, but in substance.

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A procedure which permits prolonged or indefinite incarceration on the basis of a provisional and untested allegation, while the very substratum of the offence remains under investigation, risks degenerating into a punitive process rather than a regulatory or investigative one. **Liberty, once curtailed, cannot be meaningfully restored by a subsequent acquittal, nor can the passage of time compensate for the loss occasioned by unwarranted pre-trial detention**.

1129. At the same time, it cannot be gainsaid that the legislature has vested wide powers in the Enforcement Directorate to combat the menace of money laundering, including powers of attachment, arrest, and prosecution, recognising the transnational and clandestine nature of such offences. The object of the statute is undoubtedly legitimate and compelling. However, statutory power, howsoever wide, cannot eclipse constitutional safeguards. The exercise of such power must therefore be harmonised with the settled principle that arrest and prolonged incarceration are exceptions, and not the rule.

1130. There is, thus, a manifest need to evolve a framework for striking a careful balance between the sovereign interest in the effective investigation of economic offences and the inviolable right of an individual to personal liberty. While provisional attachment of alleged proceeds of crime may be justified to preserve the subject-

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matter of investigation, the coercive measure of arrest and the consequent application of onerous bail conditions cannot be permitted to operate mechanically in the absence of a crystallised and judicially cognisable predicate offence.

1131. In this context, it is apposite to note that the Hon'ble Supreme Court in *Manish Sisodia v. State (NCT of Delhi)*, (2023) 9 SCC 772, has observed that prolonged and indefinite incarceration without the commencement or conclusion of trial constitutes a relevant consideration for the grant of bail. This Court, therefore, remains alive to the fact that the continuation of incarceration in such circumstances amounts to placing the cart before the horse, allowing the consequence to precede the cause, so that pre-trial detention does not itself substitute the punishment.

1132. Ultimately, the legitimacy of the PMLA regime depends not merely on the severity of its provisions, but on their fair, proportionate, and constitutionally informed application. **The balance between the power of the investigating agency and the right to life and personal liberty is not a matter of legislative grace, but a constitutional command. Any failure to maintain this balance is likely to undermine both the rule of law and public confidence in the administration of criminal justice**.

1133. As the order reaches its conclusion, this Court, while penning the present order, has, time and again, reminded itself of the

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enduring words of Martin Luther King Jr. that *"injustice anywhere is a threat to justice everywhere,"* as also of the venerable maxim *fiat justitia ruat caelum,* let justice be done though the heavens may fall. These principles serve as a constant reminder that the judicial task is neither to secure a convenient outcome nor to endorse a dominant narrative, but to uphold the rule of law. It is only by remaining anchored to these ideals that the confidence of the citizen in the administration of justice is preserved. With that assurance, and conscious of this obligation, the file is directed to be consigned to the record room.

Announced in the open Court
on 27.02.2026.

(Jitendra Singh)
Special Judge (PC Act) CBI-23
(MPs/MLAs Cases)
Rouse Avenue Court Complex,
New Delhi; 27.02.2026

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‘Annexure – A’

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SUBMISSIONS ON THE POINT OF CHARGE

(I) Submissions by Ld. ASG/SPP Sh. D. P. Singh, Ld. Senior PP Sh. Satish Kumar Garg, Ld. Counsels Sh. Manu Mishra, Ms. Garima Saxena, Ms. Shreya Dutt, Sh. Imaan Khera and Sh. Dig Vijay Singh, for Central Bureau of Investigation :-

1. It is submitted that the Delhi Excise Policy 2021–22 (hereinafter "the Policy") was not a bona fide fiscal reform but a calibrated instrument designed to generate large-scale illegal gratification through deliberate margin manipulation and structural alterations in the licensing regime. The proceeds so generated were intended to be distributed and utilised for political purposes. The prosecution case, when viewed cumulatively, discloses a concerted and pre-conceived design, the full conspectus of which emerges from the totality of circumstances. The material collected during investigation reveals a single, continuing criminal conspiracy commencing from the very inception of the Policy and culminating in the generation, layering and utilisation of kickbacks in the Goa Assembly elections. The conspiracy is stated to have been conceived at the highest political level, where the policy framework was altered to introduce a private wholesale regime with an enhanced margin of 12% in place of the existing 5%, and turnover criteria were relaxed despite expert recommendations to the contrary.

2. It is also submitted that the conspiracy took root at the stage of policy formulation itself. Contrary to the recommendations of the Ravi Dhawan Committee, which sought safeguards against manufacturer–retailer nexus and concentration of control, material deviations were introduced to favour the South Group. The mode and manner of finalisation of the Policy, including alleged instructions issued to Rahul Singh by Manish Sisodia (A-8), removal of legal opinions, insertion of procured and fabricated public comments to suit a predetermined narrative, initiation of a fresh note, the absence of the earlier Cabinet note, non-consideration of excise department inputs during GoM deliberations, alignment of the GoM Report with documents originating from the South Group, and dilution of eligibility criteria; collectively demonstrate that the changes were not administrative adjustments but foundational acts in furtherance of a pre-arranged quid pro quo. Digital material recovered from the devices of the

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accused is stated to evidence the influence of the South Group and other stakeholders in the formulation and implementation of the Policy.

3. It is further submitted that the conspiracy involved political executives, public servants, private entities and intermediaries, each performing a defined role:

(a) Arvind Kejriwal (A-18) and Manish Sisodia (A-8) are projected as principal political actors. Manish Sisodia, being Minister for Excise and Finance, is alleged to have been instrumental in the formulation and implementation of the Policy. Arvind Kejriwal, as overall in-charge of AAP, is stated to have overseen major decisions. Durgesh Pathak (A-19) and Vijay Nair (A-3), closely associated with them, are alleged to have worked in proximity to achieve the objectives of the conspiracy. Arjun Pandey (A-10) is stated to be closely associated with Vijay Nair.

(b) Kuldeep Singh (A-1) and Narender Singh (A-2), both excise officials, are alleged to have ensured grant of L-1 licence in favour of entities linked to the South Group.

(c) The South Group, headed by K. Kavitha (A-17), is stated to comprise Sarath Reddy (A-23), Abhishek Boinpally (A-4), Arun Pillai (A-5), Mootha Gautam (A-6) and Butchibabu (A-11). It is alleged that this group was favoured by grant of L-1 licence to Indospirits, in which Sameer Mahendru (A-7) is a stakeholder. Arvind Kumar Singh (A-15) is alleged to be closely linked to the South Group. Amandeep Singh Dhall (A-9) is projected as another beneficiary who agreed to facilitate recoupment of upfront payments to be utilised in the Goa elections for favours extended under the Policy.

(d) Other accused, including Vinod Chauhan (A-21) {allegedly closely linked to Arvind Kejriwal (A-18)}, Ashish Mathur (A-22), Rajesh Joshi (A-12), Damodar Prasad Sharma (A-13) and Arvind Kumar Singh (A-15), are alleged to have facilitated transfer of kickbacks through hawala channels to Goa. Chanpreet Singh (A-16) and Prince Kumar (A-14) are stated to have received such funds for election expenditure. The routing is alleged to have been undertaken at the behest of Durgesh Pathak (A-19), election in-charge of Goa, and Vijay Nair (A-3). Amit Arora (A-20) is alleged to have played a critical role in recoupment of upfront

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bribe amounts, particularly by targeting wholesalers who refused to give kickbacks.

4. It is contended that the prosecution summarises the conspiracy under the following heads:

(i) deliberate inflation of margins and relaxation of eligibility norms;

(ii) negotiation and structuring of upfront bribe and its recovery mechanism;

(iii) induction of proxy beneficiary entities;

(iv) manipulation of the licensing process;

(v) transfer and utilisation of kickbacks in Goa elections; and

(vi) destruction or concealment of evidence to evade culpability.

5. It is also contended that It is submitted that at the stage of charge, the Court is not required to conduct a meticulous appreciation of individual pieces of evidence. The cumulative effect of the material on record, read as a whole, discloses a continuing conspiracy extending from policy formulation to utilisation of alleged proceeds and further conduct of the accused after registration of the case. Vijay Nair (A-3)is projected as a key intermediary who, being Media In-Charge and a close confidant of the then Chief Minister, identified and engaged with the South Group and coordinated with executors including Sameer Mahendru (A-7), Amandeep Singh Dhall (A-9), Dinesh Arora and Arjun Pandey (A-10) to implement the alleged design. His involvement in policy formulation and coordination with the South Group is asserted to be established by material on record.

6. It is also contended that the bureaucratic machinery was utilised to tweak the policy document; the Ravi Dhawan Report was disregarded; public comments were manipulated; and legal opinions were excluded. The earlier file containing these deliberations is stated to be missing. It is further alleged that the Policy was cleared with undue haste during the peak COVID wave and that LG comments were manipulated despite an internal note asserting the subject to be a “transferred subject” requiring no input from the LG. It is further alleged that members of the South Group travelled by private aircraft during the relevant period and furnished a 36-page draft document, allegedly taken from Oberoi Hotel, to Vijay Nair, who

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is stated to be in close proximity with Manish Sisodia (A-8) and Arvind Kejriwal (A-18). The prosecution asserts that the South Group apportioned responsibility among themselves to pay an upfront amount of approximately ₹100 crores, to be subsequently recouped. Payments of ₹25 crores are stated to have been made by Raghav Magunta to Butchibabu (A-11) and Abhishek Boinpally (A-4) in March and June 2021. It is further alleged that ₹14 crores were paid by Sarath Reddy (A-23) to K. Kavitha (A-17) under the guise of a land transaction and ₹80 lakhs were paid by his company to an NGO associated with her. It is alleged that upon formulation of the Policy, disputes arose regarding distribution arrangements. Amandeep Singh Dhall (A-9) is stated to have preferred distribution for both M/s Pernod Ricard India Pvt. Ltd. and M/s DIAGEO; however, the South Group allegedly insisted on a single vendor arrangement to retain control. Vijay Nair (A-3) is stated to have played a crucial role in this arrangement, resulting in Dhall being distributor for M/s DIAGEO. Sameer Mahendru (A-7) is alleged to have been used as a front for Indospirits, with manipulation extending from shareholding patterns to securing L-1 licence through Kuldeep Singh (A-1) and Narender Singh (A-2). An alleged payment of ₹30 lakhs to Narender Singh is cited as facilitation. The upfront amount is also alleged to have been routed through the South Group into the account of Indospirits due to shortage of funds with Sameer Mahendru (A-7).

7. It is further contended that the prosecution further submits that the largest market share of M/s Pernod Ricard India Pvt. Ltd. and M/s DIAGEO was allocated between Indospirits and Brindco, while the remaining 20% market share was placed under an umbrella distributorship of M/s Mahadev Liquors. There is stated to be sufficient material indicating efforts to usurp this remaining market share, with Vijay Nair, Amit Arora (A-20), Dinesh Arora and elements within the Punjab bureaucracy playing significant roles. The meetings at Gauri Apartments on 21.05.2021 and ITC Kohinoor on 19.06.2021 are projected as pivotal events where capture of retail zones and the disbursal mechanism of bribe money were finalised. Booking of the venue on 21.05.2021 is stated to have been facilitated by Durgesh Pathak (A-19) through Bibhav Kumar, PA to Arvind Kejriwal (A-18). While the South Group secured shareholding in Indospirits, Brindco was allegedly tasked with facilitating recoupment through excess credit notes. The prosecution alleges that Arun Pillai invested ₹3.40 crores for 32.50% shareholding in

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Indospirits on behalf of the South Group, the investment having been procured by K. Kavitha (A-17). Approximately 61% of profits amounting to ₹29.29 crores (post-tax) are alleged to have been transferred to Arun Pillai (A-5) or on his instructions. Funds were further routed to Abhishek Boinpally (A-4) and Mootha Gautam (A-6) and/or their linked entities through layered transfers, sham agreements and media-related payments. Arjun Pandey is stated to have received ₹85 lakhs from India Ahead News.

8. The prosecution submitted that excess credit notes of ₹4.97 crores were issued by Amandeep Singh Dhall (A-9) of Brindco to generate surplus margins equivalent to an agreed 6% kickback, thereby facilitating recovery of the upfront bribe from inflated margins. Through this mechanism, the South Group is stated to have recouped ₹2.58 crores through four entities. The prosecution asserts that ₹44.54 crores collected from the South Group was transferred to Goa through angadia channels with the assistance of Arvind Kumar Singh (A-15), Rajesh Joshi (A-12), Damodar Prasad Sharma (A-13), Vinod Chauhan (A-21) and Ashish Mathur (A-22). The funds were allegedly received by Chanpreet Singh and Prince Kumar on instructions of Durgesh Pathak (A-19) and Vijay Nair (A-3) and utilised for election-related expenditure in Goa, including campaign material, hotel and hospitality expenses, and monetary support to individual candidates to the extent of ₹90 lakhs each.

9. The prosecution also relies upon subsequent conduct as indicative of consciousness of guilt, including:

(a) change of mobile phone by Manish Sisodia (A-8) on 22.07.2022, the date on which the MHA referred the matter to CBI;

(b) alleged attempts by Amandeep Singh Dhall (A-9) to pass excess credit notes after registration of the case;

(c) retention by Sarath Reddy (A-23) of ₹46.88 crores payable to Indospirits upon withdrawal of the Policy on 31.08.2022; and

(d) seizure of confidential policy documents from the premises of Amandeep Singh Dhall (A-9) during investigation. On the basis of the above, it is submitted that the material on record, when taken cumulatively, discloses grave suspicion of a structured and continuing criminal conspiracy warranting framing of charges.

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(II) Submissions by Ld. Counsels Sh. S.S. Rana, Sh. Naveen Kumar and Sh. Abhishek Mahal, for A-1 Kuldeep Singh :-

10. It is submitted that a bare perusal of the prosecution material does not disclose any evidence of demand, acceptance or obtaining of any undue advantage by A-1. In the absence of proof of demand or acceptance, the foundational ingredients of Section 7 of the PC Act are wholly absent. There is no allegation, direct or indirect, of any act, conduct, agreement or understanding attributable to A-1 suggestive of criminal intent or participation. The statement of PW-20 Dinesh Arora dated 27.10.2022, forming the basis of the charge-sheet, is exculpatory qua A-1. The alleged payment of ₹30 lakh is confined exclusively to A-2 and the statement contains no reference or attribution to A-1, who was DC (Excise). As per PW-20, the projected chain is: Sameer Mahendru → Dinesh Arora → Vijay Nair → Arava Gopi Krishna → Vijay Nair → Dinesh Arora → Narender Singh. A-1 does not appear at any stage. The assertion that only Indospirit's licence was approved on 05.11.2021 is factually incorrect, as M/s Diwan Spirit and M/s Rohan Transport were also approved on that date, while Indospirit's licence was granted on 08.11.2021, negating any preferential treatment.

11. It is further submitted that the prosecution's own material shows that any alleged pressure originated from the Deputy CM. PW-74 Arava Gopi Krishna stated that he was directed by the Deputy CM to expedite Indospirit's licence and conveyed the same to Narender Singh. Even as per PW-74's statements under Sections 161 and 164 CrPC, the alleged chain is: Dy. CM → Arava Gopi Krishna → Narender Singh. A-1 is not named or implicated.

12. It is contended that conspiracy postulates agreement or meeting of minds. The prosecution has placed no witness statement, document, call record or financial trail connecting A-1 with any conspiratorial act. PW-20 names Narender Singh but not A-1. PW-74, even under Section 164 CrPC, names Narender Singh but not A-1. This omission is substantive. A-1 was not named in the FIR dated 17.08.2022. No fresh investigation was conducted qua A-1 after grant of sanction under Section 17A PC Act, and any pre-sanction investigation against him is legally unsustainable. Parity has been violated. Anand Tiwari and Pankaj Bhatnagar, who dealt with the same complaint, have been cleared. Arava Gopi Krishna has been discharged. The CBI's own record acknowledges, at the highest,

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negligence and not conspiracy. The alleged bribe relates only to Narender Singh, yet an artificial linkage has been created with A-1. All other officers were suspended in August 2022, whereas A-1 was suspended only upon filing of the charge-sheet on 24.11.2022, reflecting discriminatory treatment in violation of Article 14.

13. It is also contended that on merits, the record shows strict adherence to guidelines. The IMPL application was issued the maximum deficiency memos. Indospirit's licence took 60 days, the longest among applicants. IDL was common to both applications. The first IMPL application was withdrawn under Rule 35 of the Delhi Excise Rules, 2010. The second Indospirit application satisfied eligibility, as IDL acted as permissible agent of a manufacturer. PW-07 Ashok Kumar's comparative data shows licences were normally granted in 7–42 days, whereas Indospirit took 60 days. There was no policy violation. The blacklisting of Sameer Mahendru stood stayed. The anonymous complaint, though non-est under CVC guidelines, was examined. No EMD irregularity was found, and Wholesale L-1 licences did not require EMD. Any funding or relatedness issue would have affected both retail and wholesale licences, which did not occur. A-1's role as Chairman of the Transition Committee was confined to ensuring uniform and time-bound processing. He had no role in litigation and no knowledge of any writ petition. In the first IMPL application, mandatory turnover and experience certificates were not furnished and the third deficiency memo dated 27.10.2021 was not replied to. In the second Indospirit application, certificates issued by Excise Officers of UP and Delhi for B9 Beverages were duly furnished and verified. Excluding IMPL turnover, IDL did not meet the ₹150-crore threshold in the first application.

14. It is further contended that A-1 has an unblemished service record with outstanding APARs, detected major revenue fraud, implemented "One Nation One Ration", and discharged sensitive assignments. He was not suspended when the matter was referred to the CBI and, after revocation of suspension on 16.09.2025, was posted as DIG (Prison), reflecting continued governmental confidence. The processing chart proved through PW-07 demonstrates uniformity and absence of preferential treatment. In the totality of circumstances, no prima facie case is disclosed against A-1. The essential ingredients of the alleged offences are absent.

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Continuation of proceedings would amount to abuse of process and A-1 deserves discharge.

(III) Submissions by Ld. Counsels Sh. Pardeep Rana, Sh. Gagan Bhatnagar, Sh. Tushar Rohmetra and Sh. Vibhor Choudhary, for A-2 Narender Singh :-

15. It is contended that the prosecution has failed to establish the indispensable ingredient of demand of illegal gratification, which is the sine qua non for offences under Sections 7 and 7A of the PC Act. Even if the prosecution case and the testimonies of its witnesses are taken at their highest, no allegation of demand is attributable to A-2. The statements of PW-20 Dinesh Arora, PW-18 Suman and PW-19 Sachin do not disclose any such demand. It is an admitted position that no recovery of the alleged sum of ₹30 lakhs has been effected despite searches conducted after sanction under Section 17A PC Act. In the absence of proof of demand, the prosecution case collapses at the threshold, as held in *Neeraj Dutta v. State* and *P. Satyanarayana Murthy v. State of A.P.*

16. It is further contended that the prosecution case hinges primarily on PW-20 Dinesh Arora, whose statements are hearsay, mutually inconsistent and materially contradictory. His statements under Sections 161 and 164 CrPC do not consistently implicate A-2. The sole allegation against A-2 appears for the first time in the statement dated 27.10.2022, recorded immediately prior to the filing of the application under Section 306 CrPC on 01.11.2022, clearly indicating an afterthought introduced to secure pardon. No incriminating statement has been made against A-2 after PW-20 was granted pardon on 16.11.2022. It is settled law that the uncorroborated testimony of an approver or co-accused cannot sustain a charge, as held in *Yogender Mittal v. CBI* and *Haricharan Kurmi v. State of Bihar.*

17. Ld. Counsel submitted that the prosecution witnesses have categorically stated that pressure emanated from the then Deputy CM to process the Indospirit application expeditiously and that A-2 merely acted in compliance with directions conveyed by PW-74 Arva Gopi Krishna. This is corroborated by PW-71 C. Arvind and PW-74 Arva Gopi Krishna in their statements under Sections 161 and 164 CrPC. The record shows that A-2 acted strictly in accordance with directions of his superiors, namely Kuldeep Singh, DC (Excise), and Arva Gopi Krishna. No independent discretion or deviation is attributed to him. Further, the prosecution

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has failed to establish the alleged mobile-phone location near Khan Market; PW-23 does not support this link, leaving the chain incomplete.

18. It is also submitted that the allegation of undue haste or improper grant of licence is incorrect. The earlier application dated 09.09.2021 admittedly suffered from deficiencies. The subsequent application was independently scrutinised and processed after compliance with VAT, IEC and turnover requirements. The deficiency regarding ₹150 crore turnover was cured by disclosure of Indospirit as distributor of M/s B9 Beverages Pvt. Ltd., whereafter the L-1 licence was issued on 08.11.2021. Issuance of licences on the same day was routine, as reflected by the licence granted to M/s Goldsun Garments on 09.11.2021 without any deficiency memo. A-2 acted strictly in accordance with the Excise Policy and on the basis of undertakings under Annexure-B, and was under no obligation to investigate familial or indirect shareholding.

19. Further, it is argued that clause 1.5 of the Excise Policy defines cartelisation as majority ownership of 51% or more. Officers were bound to examine applications only within this framework and under Section 34(1) of the Delhi Excise Rules, 2010. The allegation of cartelisation through cross-funding of EMD was independently examined by the Retail Branch through a show-cause notice dated 09.11.2021, and the Deputy Controller of Accounts clarified that EMD and participation fees paid by demand drafts are valid even if not from the applicant's own account. Senior officers Anand Tiwari and Pankaj Bhatnagar were placed in Column 12 and not charge-sheeted. Likewise, Arva Gopi Krishna, PW-18 Suman and PW-19 Sachin were not charge-sheeted despite their admitted roles, demonstrating selective prosecution against A-2.

20. It is submitted that neither the tender conditions nor the Excise Policy 2021–22 required registration of a joint venture, a fact admitted by prosecution witnesses. The petition filed by Varun Chaudhary was forwarded to the department only on 08.11.2021 and was confined to the Retail Branch; it was never before the L-1 Wholesale Branch and the present accused had no role therein. Ld. Counsels concluded their arguments submitting that an offence under Section 120-B IPC cannot survive in the absence of material showing a meeting of minds or agreement to commit an illegal act. Even if the entire prosecution material is accepted at face value, no prima facie case or grave suspicion arises

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against A-2. Continuation of proceedings would amount to abuse of process of law and A-2 is entitled to discharge.

(IV) Submissions by Ld. Senior Advocate Sh. Madhav Khurana, Ld. Counsels Ms. Stuti Gujral, Ms. Vrinda Bhandari, Sh. Piyush Kumar, Sh. Nishant Sharma, Sh. Syed Miran Ahmad, Ms. Vidushi Sabharwal, Sh. Arjun V. Harihar and Sh.Vipin Kumar, for A-3 Vijay Nair :-

21. It is submitted that A-3 has been summoned in the present proceedings in his capacity as a private individual for the alleged offences u/s 7, 7A and 8 of the PC Act, read with Section 120-B of the IPC. For each of the alleged substantive offences, the prosecution was required, at the threshold, to identify a public servant at least by designation or capacity and to demonstrate the specific public duty which was allegedly influenced, or sought to be influenced, by him. This foundational requirement has not been satisfied. In the absence of a prima facie substantive offence, the allegation of criminal conspiracy u/s 120-B IPC cannot survive, as conspiracy presupposes an unlawful object capable of being established. A-3 is a private individual who founded a private entertainment company, "Only Much Louder", and later associated himself with the Aam Aadmi Party in 2014 as a volunteer without remuneration. Owing to his professional background, he assisted the media and communications team of the party by publicising its activities and relaying stakeholder feedback. His professional engagements had brought him into contact with stakeholders in the alcohol industry in connection with events and festivals sponsored by such entities. The prosecution record does not disclose any close or proximate association between A-3 and any of the accused public servants. There is no material to indicate that he acted as an agent, intermediary or representative of any public servant. Not a single meeting between him and any public servant during the alleged period of conspiracy has been demonstrated. No document or witness from the Excise Department attributes to him any role in the formulation or implementation of the New Excise Policy. His conduct must therefore be assessed strictly as that of a private individual operating in his personal and professional domain. As regards the allegation relating to meetings with industry stakeholders between February and August 2021, the prosecution material, even if taken at its highest, merely

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suggests that he sought feedback and support on the proposed excise policy from persons known to him in the industry. Such conduct, by itself, is neither illegal nor incriminating. At best, the prosecution relies upon the statement of PW-101; the remaining material is either hearsay or exculpatory. The statement of PW-101 is vague and devoid of particulars. It does not disclose any bribe demand, nor does it specify any policy clause allegedly sought to be altered. PW-101 states that no bribe was paid and that no consequence followed. His assertion that the final policy deviated from certain suggestions is unsupported by any concrete instance. Such vague assertions cannot sustain a charge. Even otherwise, there is no disclosure of "undue advantage" within the meaning of Sections 7 or 7A of the PC Act. At its highest, the material reflects a solicitation or discussion, which does not amount to an offence in law.

22. It is further submitted that the allegations pertaining to meetings at Gauri Apartments and ITC Kohenoor, even if accepted in toto, indicate only that A-3 attended meetings with private individuals in his personal capacity to explore possible business opportunities. The New Excise Policy had been placed in the public domain from 22.03.2021 onwards. There was no legal prohibition against such discussions. The version of the approver, PW-20, stands contradicted by his own subsequent statements as well as by the testimony of independent witnesses PW-1 and PW-2. The material, when read cumulatively, is exculpatory. Even assuming, without admitting, that a private negotiation occurred, the same remains a private arrangement unconnected with any public servant or public duty. No offence under the PC Act or IPC is thereby disclosed. With respect to the allegation of receipt of ₹20–30 crores through hawala, the prosecution material, at its highest, suggests receipt of money in his personal capacity without linkage to any public servant or official act. There is no presumption in law that such receipt was on behalf of another or for an improper purpose, and Section 20 of the PC Act is inapplicable. The allegation rests solely on the uncorroborated testimony of PW-20, which is inconsistent as to dates, quantum and number of transactions. No independent corroboration, including examination of the alleged hawala operator, has been adduced. Such infirm material does not even raise grave suspicion. The allegation that A-3 "directed" Pernod Ricard not to appoint Brindco, even at its highest, establishes only that Pernod Ricard officials interacted with him voluntarily as a private individual. His views were treated as personal opinions.

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No threat, consequence or coercion is alleged. The failure of negotiations between Pernod and Brindco arose from independent commercial considerations. This allegation is therefore misconceived.

23. It is also submitted that in relation to the alleged influence in the grant of L-1 licence to Indospirits, the sole material is the statement of PW-20 claiming to have been informed by A-3 that he had spoken to the Excise Commissioner. This is hearsay. The Excise Commissioner (PW-74) denies any acquaintance or communication. At best, the prosecution suggests an untruth told to PW-20, which is neither incriminating nor legally relevant. No document or departmental witness attributes any role to A-3 in the grant of licence. The allegation regarding credit notes of ₹34.55 lakhs, even if accepted at face value, pertains to transactions between private entities. No public servant is involved and no official act is shown to have been influenced. Private commercial dealings do not attract Sections 7, 7A or 8 of the PC Act. The allegation again rests on uncorroborated approver testimony. Similarly, the allegation of transfer of ₹45.54 crores to Goa is unsupported by any material connecting A-3 with the alleged cash movement. The statements relied upon are either hearsay or silent as to his involvement. No public servant, official act or *quid pro quo* is identified. The essential ingredients of the alleged offences remain unestablished.

24. It is finally urged that in the totality of circumstances, the prosecution case against A-3 rests on conjecture, uncorroborated approver testimony and private commercial interactions unconnected with any public duty. Permitting the prosecution to proceed on such tenuous material would subject him to a roving and vexatious trial. A-3 is therefore entitled to discharge in respect of the aforesaid allegations.

(V) Submissions by Ld. Counsels Sh. Sumer Singh Boparai, Sh. Surya Pratap Singh, Sh. Abhilash Kumar Pathak, Sh. Shubham Raj Anand and Sh. Sirhaan Seth, for A-4 Abhishek Boinpally :-

25. It is submitted that the principal allegation sought to be advanced by the prosecution is that during 14.03.2021–17.03.2021 he played a conspiratorial role in the formulation of the excise policy. Beyond certain Call Detail Records, which admittedly do not contain call transcripts or tower-location particulars, the

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prosecution relies upon a purported 36-page printout stated to have been taken at Oberoi on 16.04.2021 (D-128), repeatedly cited as the sole corroborative material in the relevant paragraphs of the charge-sheets. The said allegation is ex facie unsustainable and stands contradicted by the prosecution's own record. PW-71 (Sh. C. Arvind Kumar, Secretary to A-8), in his statement u/s 164 CrPC (D-187), categorically states that on 18.03.2021, A-8 handed him a hard copy of the draft GoM report comprising 20–25 pages and directed him to have it typed with proper formatting and pagination. PW-71 further states that the document became 38 pages only on 19.03.2021 at 10:30 PM upon completion of typing and formatting.

26. It is also submitted that it is borne out from the record that three GoM reports were prepared at the relevant time: dated 15.03.2021 (24 pages); dated 19.03.2021 (38 pages); and dated 22.03.2021 (49 pages). None of these corresponds to a 36-page document. The report dated 15.03.2021 comprised 24 pages; the report dated 19.03.2021 expanded to 38 pages only on 19.03.2021 at 10:30 PM; and the report dated 22.03.2021 comprised 49 pages. The attempt to build a theory of conspiracy on the basis of a purported 36-page printout allegedly taken on 16.03.2021 is therefore inherently self-contradictory. A document of 36 pages, allegedly generated prior to the existence of the typed GoM draft, cannot reasonably be treated as the GoM report, particularly when the original hard copy itself was only 20–25 pages and expanded only upon typing on 19.03.2021 at 10:30 PM. The allegation fails on the prosecution's own showing. Further, with respect to the meeting alleged at Gauri Apartment on 21.05.2021, the prosecution contends that A-4, along with A-3, A-5 and A-11, attended a meeting where discussions allegedly took place regarding the liquor policy and modalities for payment of pecuniary advantage. The prosecution relies primarily upon PW-20 (approver), besides PW-1 and PW-2.

27. It is contended that, barring the uncorroborated version of PW-20, there is no independent material, oral or documentary, to support the prosecution narrative. On the contrary, a plain reading of the statement of PW-2 (Sikandar Mann) indicates that the meeting related to businessmen from the "South" who were unfamiliar with the functioning of retail zones in Delhi and were seeking information regarding their operation. PW-2 further states that certain employees/labourers were deputed to assist A-4 in operating retail zones and were

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later disengaged in February 2022. The statements of PW-1 and PW-2, read conjointly, do not disclose any incriminating discussion relating to formulation or tweaking of the excise policy, nor do they support any allegation of transfer of money in lieu of undue favour. Even on the prosecution's own witnesses, the meeting does not establish the hatching of any conspiracy. In relation to the alleged meeting at ITC Kohinoor, Hyderabad during 18.06.2021–20.06.2021, the prosecution alleges that it was conspired to send ₹20–30 crores as "upfront money" in lieu of a favourable excise policy.

28. It is also contended that the fulcrum of the prosecution's case is that A-4 was the key person responsible for transporting such upfront money from the "South" to PW-20. However, the prosecution itself has shifted the alleged quantum of "upfront money" across charge-sheets; 20–30 crores; 90–100 crores; 44.54 crores, thereby demonstrating internal inconsistency. Further, PW-1 admittedly travelled to Hyderabad but was asked to leave the room and is unaware of the contents of the alleged meeting. There is thus no independent witness corroborating PW-20. The alleged mechanism of transporting money, namely exchange of currency note numbers, was never followed, and no such currency notes were recovered from A-4 or PW-20. The allegation remains unsupported by material evidence. PW-20 further alleges that A-4 met PW-74 (Arava Gopi Krishna) at Oberoi; however, PW-74 categorically states that he does not know A-4 and never met him. The repeated improvements in PW-20's statements, even after grant of pardon, indicate absence of true and full disclosure. Despite exhaustive investigation and multiple charge-sheets, not a single currency note has been recovered and no hawala operator has been identified in relation to the alleged June–July 2021 transactions. It is also significant that PW-20, in his first statement dated 07.09.2022 u/s 50 PMLA, expressly stated that he had no financial transaction with A-3, and thereafter altered his stand in successive statements. Conspiracy, in law, must precede the commission of the alleged offence. The prosecution's own case is that the relevant tweaking of the definition of "related entity" occurred vide GoM Report dated 15.04.2021. On that premise, the alleged conspiracy to send "upfront money" during 18.06.2021–20.06.2021 cannot logically be projected as the genesis of such tweaking. PW-226 (Raghav Magunta), projected as a prime witness, did not name A-4 in his earlier statements. Only after obtaining concession of bail did he introduce allegations of

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money being sent to Butchi Babu and A-4. While he specifies a date for allegedly giving money to A-11, qua A-4 he makes only a vague assertion that sometime in June A-4 contacted him to demand ₹15 crores as upfront money. PW-227 claims to have handed over ₹10 crores and ₹15 crores to an unknown person, yet fails to disclose identity, contact particulars, location or recognition of the alleged recipient. The statements of PW-195 (Ashok Kaushik), read with PW-20's statement dated 23.04.2023, do not establish a reliable chain of movement of cash. PW-195, in his first statement dated 17.01.2023, does not attribute any incriminating act to A-4. It is only after about six months, in a subsequent statement dated 29.06.2023, that he alleges delivery of four bags to Vinod Chauhan at A-4's instance. He further refers to deliveries to one Ashok Singh, who does not figure in the prosecution case as either accused or witness. Even in his statement u/s 164 Cr.P.C., he furnishes no crucial particulars. The alleged money trail remains speculative and unsupported.

29. It is further submitted that with regard to the allegation of receipt of ₹3.85 crores from Mootha Gautam (A-6), it is submitted that A-4 and A-6 had a pre-existing business relationship. In November 2020, A-4 advanced a friendly loan of ₹6.53 crores to A-6, of which approximately ₹2.80 crores remains outstanding; the amount of ₹3.85 crores was merely part-repayment of the said loan, as reflected in contemporaneous documents (D-50; D-89; PW-29). A-4 cannot be imputed with knowledge of the source from which A-6 arranged repayment. The transactions pre-date the alleged period of offence and bear no nexus to any alleged conspiracy. Similarly, the alleged transfers of ₹1.70 crores from M/s Indospirits to M/s APPL and M/s IAN bear no nexus to A-4. The record relied upon by the prosecution itself indicates that these amounts were paid towards a campaign. Without prejudice, the mere purchase of a trademark or logo does not, in law, translate into control over a company's affairs or entitlement to its profits. In the absence of cogent material demonstrating beneficial ownership, *de facto* control, or entitlement to financial accruals, no adverse inference can be drawn against A-4. It is finally submitted that the prosecution's case against A-4 rests on conjecture, internally inconsistent statements of accomplice witnesses, and an unsubstantiated money trail unsupported by recovery or independent corroboration. Even if the material is accepted at its highest, it does not disclose

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the essential ingredients of the alleged offences. A-4 is therefore entitled to discharge.

(VI) Submissions by Ld. Senior Advocate Sh. Pramod Kumar Dubey, Ld. Counsels Sh. Nitesh Rana, Sh. Joy Banerjee, Ms. Amrita Vatsa, Sh. Satyam Sharma, Ms. Aditi Singh, Sh. Aditya Narayan, Ms. Raksha Tripathi, Sh. Suyash Pandey, Sh. R.B. Siddhartha, Ms. Muskan Sharma, Sh. Yash Saxena, Sh. Samarth Panwar and Ms. Khushi Arora, for A-5 Arun Ramchandra Pillai :-

30. It is submitted that the prosecution seeks framing of charge against A-5 u/s 120-B IPC read with Sections 7, 7A and 8 of the PC Act, 1988. Even if the material on record is accepted at face value, the essential ingredients of the alleged offences are not made out against A-5. The prosecution has taken mutually inconsistent stands regarding the inception of the alleged conspiracy, alternately placing it in January–February 2021 and April 2021. Such shifting versions render the foundation of the prosecution case uncertain and legally unsustainable. The prosecution has sought to combine unrelated events such as policy formulation, alleged payments, grant of L-1 licence and election expenditure into a single narrative of conspiracy, despite these pertaining to different time periods, persons and transactions. In the absence of any meeting of minds or demonstrable nexus, such aggregation cannot constitute conspiracy. The reliance on Call Detail Records and cell-tower location data is misconceived. No subscriber records or foundational proof linking the data to A-5 prior to 24.01.2022 have been produced. Mere presence or proximity reflected in such data does not establish participation in a conspiracy. Further, certain electronic evidence is unsupported by certification u/s 65-B of the Evidence Act and is inadmissible.

31. It is also submitted that the statements of PW-1, PW-2 and PW-20 contain material contradictions regarding the alleged meeting at Gauri Apartments and lack independent corroboration. They merely refer to discussions on liquor shop modalities and do not attribute any illegality to A-5. With respect to the alleged meetings at ITC Kohinoor, Hyderabad, and Hotel Taj Mansingh dated 20.09.2021, the statements relied upon do not disclose any illegal agreement or act involving A-5. No financial trail of ₹20–30 crores has been established, nor is there corroboration from intermediaries or supporting digital evidence. The allegation of A-5's presence at Hotel Oberoi on 05.11.2021 appears only in a belated

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supplementary statement and finds no support in the initial statements, rendering it unreliable. Similarly, the allegation of threatening a witness at Le Meridien, Gurgaon on 08.11.2021 is unsupported by hotel records or identification and is admitted by the witness to be without personal knowledge. The financial transactions relied upon do not establish conspiracy. The alleged contribution of ₹2.90 crores to M/s Indospirits is shown to be in the nature of genuine loans, which were subsequently repaid. The alleged disproportionate profit arises from internal commercial arrangements and cannot be criminalised. The loan of ₹4.25 crores from Mootha Gautam is supported by a Loan Agreement dated 18.02.2022, with repayment period extending up to 10.02.2025.

32. It is argued that the prosecution has selectively arraigned A-5 while treating another similarly placed person as a witness, raising serious doubt on the fairness of the investigation. At the stage of framing of charge, the Court must determine whether the material discloses the essential ingredients of the offences and raises grave suspicion. The material relied upon is speculative, contradictory and uncorroborated, and does not give rise to any prima facie case against A-5. Accordingly, continuation of proceedings against Accused No. 5 would amount to an unwarranted trial in the absence of foundational material, and he is entitled to discharge.

(VII) Submissions by Ld. Senior Advocate Ms. Maneka Guruswamy, Ld. Counsels Sh. Shivendra Dwivedi, Ms. Onmichon Ramrar, Sh. Lavkesh Bhambani, Ms. Bhumika Yadav and Sh. Anmol Gupta, for A-6 Mootha Gautam :-

33. It is contended that A-6 is a media professional with over 24 years' experience. He acquired *Andhra Prabha* in 2002, incorporated Andhra Prabha Publications Ltd. (APPL) in 2005 as its Managing Director, and later expanded into electronic media by incorporating India Ahead News Pvt. Ltd. (IANPL) in 2013. The English news channel "India Ahead" was launched in 2018 pursuant to valid MIB permissions and featured among the top English channels in 2019. At the outset, it is submitted that the prosecution material discloses no direct or indirect linkage between A-6 and the alleged Delhi Excise Policy offences. He has no association with the liquor trade and admittedly did not participate in any of the alleged conspiracy meetings at Gauri Apartment, ITC Kohinoor, Taj Hotel or

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elsewhere. The alleged motive attributed to him to manipulate excise policy is therefore unfounded.

34. It is further contended that the prosecution primarily relies on monetary transactions between A-6 and co-accused A-4, A-5 and A-11. It is submitted that financial dealings, by themselves, do not constitute conspiracy. There is no material showing any meeting of minds, agreement, or act connecting such transactions to the alleged criminal design. The alleged presence of A-10 (Arjun Pandey) at certain meetings cannot implicate A-6 in the absence of evidence that A-6 instructed or authorised him. Similarly, the allegation concerning A-15 (Arvind Kumar) is vague. Even assuming A-15 facilitated hawala transactions, the WhatsApp material does not show that A-6 had knowledge of or involvement in any such dealings, and their communications were routine employer–employee exchanges. The attempt to link A-6 to the offence rests on bank transactions with A-4, A-5 and A-11. The prosecution has not demonstrated how these are connected to any excise policy manipulation or proceeds thereof. The record shows that A-6's businesses were under financial distress due to an investor (PW-13) withdrawing, leading to civil disputes. Consequently, he raised funds from friends and family. During 2021–2022, unsecured loans aggregating about ₹26.82 crores were received. Loans raised to sustain a failing business cannot, absent linkage to conspiracy, justify framing of charge. Regarding A-4, both knew each other since 2012. A-6 received hand loans totalling ₹6.53 crores from October 2020, prior to the alleged conspiracy period. As security, APPL assigned the "India Ahead" trademark to A-4 for ₹1.30 crores by registered deed dated 10.06.2022. A-4 and A-6 also jointly acquired ZNPL (having MIB licence) for ₹5.05 crores, supported by statutory approvals and bank records. These are legitimate commercial transactions and pre-date the alleged conspiratorial meetings.

35. It is also contended that with respect to A-5, A-6 took a loan of ₹4.75 crores on 10.02.2022, reduced into a stamped loan agreement dated 18.02.2022. Objections raised by the prosecution regarding non-registration, witnesses, and same-day transfer to A-4 are legally untenable, as unsecured loan agreements need not be registered, witnesses need only attest execution, and the transfer was part-repayment of A-4's earlier loan towards ZNPL acquisition. Further, as regards A-11, A-6 took loans of ₹30 lakhs and ₹70 lakhs in April–May 2021, fully repaid

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by September 2021. The prosecution has omitted pages showing receipt entries and relies only on repayments. Alleged transfers from A-4 to A-11 are based on conjecture, whereas repayments were from pooled funds. The proposed marketing campaign for Indospirits was a legitimate commercial proposal similar to past assignments for GoDaddy and Dream11. Advances of ₹1 crore and ₹70 lakhs were paid and recorded as "Advance" in accounts. The campaign failed only due to subsequent arraignment of A-5. Absence of a formal agreement does not render the transaction fictitious. Even on a face-value reading, the ingredients of Sections 7A and 8 of the PC Act are not satisfied. There is no allegation that A-6 sought undue advantage, dealt in liquor business, influenced any public servant, or handled hawala money. All transactions are through banking channels and *prima facie* commercial. A-6 cannot be charged u/s 120-B IPC merely due to financial dealings with co-accused, absent evidence of unlawful intent or participation in any conspiracy. There is no motive, no nexus with excise policy, and no material showing direction, knowledge or participation. Accordingly, even if the prosecution case is accepted at its highest, no grave suspicion arises against A-6, and he is entitled to discharge.

(VIII) Submissions by Ld. Counsels Sh. Dhruv Gupta, Sh. Anubhav Garg and Sh. Yash Raj Mehran, for A-7 Sameer Mahandru :-

36. It is submitted that the allegation of payment of ₹30 lakhs by A-7 to A-2 does not disclose a prima facie offence u/s 8 of the PC Act. The allegation rests solely on the fourth statement of PW-20 dated 27.10.2022 and is purely hearsay, lacking particulars of time, place, manner or mode. PW-23 has stated that even the presence of A-7 and PW-20 near Khan Market cannot be ascertained. There is no corroboration by way of CDRs, electronic trail, recovery or independent witnesses, nor any allegation of inducement or demand. It is further submitted that A-2 was not the approving authority for the L-1 licence. As per PW-20's statement u/s 164 CrPC, the alleged advance bribe had already been paid between July and September 2021, rendering any further payment by A-7 inherently implausible. Even in PW-20's Section 164 CrPC statement dated 30.09.2022, no allegation of payment by A-7 is made. A new allegation of payment of ₹3 crores by A-7, introduced in PW-20's seventh statement dated 17.10.2023 after grant of

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pardon, does not form part of any charge-sheet. Raman Chawla and Narender Bhaskar are un-relied witnesses, Sarvesh Mishra has not been examined, and Sanjay Singh is not an accused. The prosecution has thus not pursued this version. In any case, statements of PW-20 or PW-226, being of an approver/co-accused, are inadmissible against A-7. There is no prima facie material to show that A-7 exercised any influence over a public servant. PW-74 has denied any communication with A-3 or PW-20. Had influence been exercised, deficiency memoranda and show-cause notices would not have been issued to M/s IMPL, nor would its licence application have been withdrawn. The Excise Department also forwarded the complaint against M/s Khao Gali Restaurants Pvt. Ltd. to the Income Tax Department. PW-272 corroborates this position. The allegation that an unregistered JV was taken on record in violation of the New Excise Policy is misconceived. The JV Agreement of M/s IS was duly attested and registration was not mandatory, as stated by PW-18. Another licensee, M/s KSJM LLP, was granted licence on the basis of an unregistered deed, yet is not an accused, rendering the allegation selective.

37. It is also argued that the claim that only M/s IS was granted an L-1 licence on 05.11.2021 is incorrect. PW-7 has stated that licences were also granted on the same date to M/s Rohan Transport and M/s Dewan Spirits. The WhatsApp-based allegation is further diluted as the phones of PW-20 and A-1, A-2 and A-7 are all un-relied. There is no material to show pressure in appointment of M/s IS as distributor of M/s PRI. PW-17 has stated that M/s IS was chosen on commercial parameters after Brindco declined exclusivity, that A-3 did not suggest any name, and that due diligence was conducted through PwC. A-7's commercial association with M/s PRI since 2015 negates any impropriety. The allegation of EMD funding/cross-funding is unsustainable. Corporate guarantees and inter-corporate loans were extended to multiple entities, none of whom are accused. PW-226 has described these as legitimate loans repaid with interest. A-7 was neither shareholder nor director in M/s KG or M/s Bubbly. Cartelisation is not an offence under the PC Act. The allegation regarding outstanding retail zone dues is irrelevant to A-7. M/s IS had dues of over ₹150 crores from several licensees, and policy revocation, losses and NCLT proceedings explain non-recovery. There is no material to connect A-7 with policy formulation or conspiracy u/s 120-B IPC. The prosecution confines policy-related meetings to January–June 2021 involving

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other accused. A-7 is not alleged to have participated in any such meeting. Subsequent commercial acts cannot attract criminal liability.

38. Lastly, it is contended that the allegation of recoupment of ₹29.29 crores is misconceived. The amount represents a running account of Accused No. 5 with M/s IS and includes business and personal expenses. The furnishing of a personal security cheque of ₹32.5 crores establishes a commercial arrangement. There is no material linking A-7 to any recoupment for the alleged "South Group". A-7 is neither a public servant nor an intermediary, and no offence u/s s 7, 7A or 8 of the PC Act is made out even prima facie. Accordingly, even if the prosecution case is accepted at its highest, no grave suspicion arises against A-7, and he is entitled to discharge.

(IX) Submissions by Ld. Senior Advocate Ms. Rebecca John, Ld. Counsels Sh. Vivek Jain, Sh. Sadiq Noor, Sh. Rohit Nair and Mohd. Irshad, for A-8 Manish Sisodia :-

39. It is submitted that the prosecution case rests on the erroneous premise that the Excise Policy 2021–22 was manipulated to favour a particular group. The record, however, shows that the policy was the outcome of a structured, consultative and inter-departmental process aimed at reforming an admittedly flawed earlier regime. Under the previous framework, manufacturers could operate as wholesalers and, through proxy arrangements, even as retailers, with minimal entry barriers and no effective price control. This vertical integration led to monopolistic conditions and profit margins up to 65%, necessitating reform. The new policy was formulated through constitution of an expert body, public consultation, deliberations of the Group of Ministers, inter-departmental scrutiny (Excise, Planning, Law and Finance), Cabinet consideration and reference to the Hon'ble Lieutenant Governor. The Ravi Dhawan Committee highlighted distortions in the earlier regime and recommended delinking manufacturers from wholesale operations; its recommendations were advisory.

40. It is contended that the allegation of an abrupt increase in profit margin from 5% to 12% is misconceived. GoM reports dated 15.03.2021, 19.03.2021 and 22.03.2021 show that drafting evolved through discussions and multiple iterations. The 5% figure was only a minimum suggestion without an upper cap.

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The final 12% cap was fixed after factoring substantially higher obligations on wholesalers, including ₹5 crore annual licence fee, testing labs, CCTV, anti-brand-pushing measures, warehousing norms and enhanced operational costs. Even as per the Ravi Dhawan Committee, the earlier regime enabled margins up to 65%; thus, the 12% cap restricted profitability rather than expanding it. The policy introduced consumer safeguards such as lowest ex-distillery pricing, mandatory pass-through of reductions, barcoding and competitive zoning through e-tendering into 32 retail zones. Cabinet Note dated 16.04.2021 and inter-departmental correspondence reflect collective decision-making. The policy was forwarded to the Hon'ble LG under Article 239AA(4); his suggestions were incorporated and approved. Official file notings, proved by LG Secretariat officers, show institutional participation and attract presumption of regularity under Section 35 of the Evidence Act.

41. It is also contended that structurally, the policy separated manufacturers, wholesalers and retailers, barred cross-holding, imposed strict eligibility and anti-cartelisation measures, and replaced excise-duty driven revenue with high upfront licence fees. The earlier 5% margin and the later 12% cap operated in entirely different ecosystems and are not comparable. Retail pricing was governed by statutory rules; regulated discounts were permitted in consumer interest and later rationalised. Prosecution witnesses (PW-110 and PW-111) themselves indicate that increased landed costs reduced effective margins, especially in beer distribution.

42. A substantial part of the prosecution case challenges the wisdom of the policy. It is settled that fiscal and economic policy lies within executive discretion and cannot be criminalised absent demonstrable harm to public interest, as held in *State of Madhya Pradesh v. Sheetla Sahai*, *Small Scale Industrial Manufacturers Association v. Union of India*, *Parag Ice & Oil Mills v. Union of India* and *Vivek Narayan Sharma v. Union of India*. The allegation that public consultation was manipulated through six emails out of over 14,000 is untenable. There is no evidence that these influenced the policy, no recovery of any handwritten note, and no proof of any meeting between A-8 and the alleged sender. The claim of suppression of legal opinions is contradicted by record, which shows that A-8 directed all viewpoints to be placed before the Cabinet. GoM minutes of February 2021 reflect detailed deliberations, corroborated by witnesses. The "upfront bribe"

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allegation fails on timeline: the alleged money trail begins months after policy decisions. There is no recovery from A-8, no evidence of demand, and no proof of receipt.

43. It is argued that the alleged nexus with Vijay Nair is unsupported; mere proximity of offices cannot establish conspiracy. There is no recovery of the alleged 36-page document or any device linking it to A-8, and even the prosecution's WhatsApp material does not show knowledge of a 12% margin by alleged beneficiaries. Regarding Indospirits, the initial statement of the concerned officer made no allegation against A-8. Even subsequent statements only attribute a direction to process the file "as per rules". The main charge-sheet attributes alleged bribery to other officials; there is no basis to implicate A-8. In sum, there is no material showing demand, receipt or facilitation of illegal gratification by A-8. The prosecution seeks to criminalise a policy decision without proving harm to public interest or the essential ingredients of the offences. No case is made out against A-8.

(X) Submissions by Ld. Counsels Sh. Adit S. Pujari, Sh. Shaswat Sarin and Sh. Shaurya Mittal and Ms. Dhanya Visweswaran, for A-9 Amandeep Singh Dhall :-

44. It is submitted that the allegations concerning issuance of credit notes by A-9 are wholly misconceived in fact and law. When examined in their proper commercial and contractual context, the material on record discloses no illegality or criminality. Issuance of credit notes is a well-recognised industry practice in the liquor trade, as affirmed by PW-107, PW-108, PW-109, PW-110, PW-111, PW-112, PW-113, PW-114 and PW-119. Performance-linked incentive schemes are routinely implemented through credit notes to promote sales and market share. In the present case, such schemes were introduced and credit notes issued strictly in furtherance thereof. The prosecution's own documents (D-131 and D-175) demonstrate a substantial increase in sales of UBL and USL products during the relevant period, thereby negating the theory that incentives did not result in higher sales.

45. It is also submitted that even for high-selling brands, manufacturers represented by BSPL enhanced incentives. PW-114 has stated that BSPL was

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never prohibited from issuing credit notes from its own repository. In respect of USL, the agreement dated 23.05.2022 contains no bar on non-manufacturer-backed credit notes, and PW-112 has confirmed absence of prohibition. Annexure P-1 (D-185) reflects corresponding sales growth. Similarly, the UBL agreement dated 23.09.2022 contains no restriction on issuance of credit notes from distributor margins; rather, it obliges the distributor to promote and develop the market. Annexure P-2 (D-185) shows comparative price parameters across states. In practice, incentive schemes were often conveyed orally by manufacturers, as borne out by PW-109 and PW-111. Prior written approval, even if mentioned in agreements, was not strictly adhered to, and emails show that schemes were formalised post-implementation. This accepted commercial conduct negatives any suggestion of clandestine or unauthorised activity by BSPL. The prosecution relies on witnesses who were not involved in commercial negotiations, while the person handling such matters, Mr. Arvind Padhi, has not been examined. The Sula agreement dated 01.11.2021 also does not prohibit issuance of credit notes. The clause relied upon by the prosecution merely contemplates reimbursement of approved discounts and does not bar incentives from distributor margins. The allegation of recoupment by the so-called "South Group" is untenable. Retailer accounts were reconciled on T+15/T+30 terms and fully settled. No financial trail supports recoupment through credit notes, and BSPL's financial statements (D-200) provide no commercial rationale for such conduct. PW-17, PW-113 and PW-114 show that manufacturers were keen to appoint BSPL due to its standing and compliance record. The suggestion that both UBL and Pernod Ricard would simultaneously appoint BSPL is incorrect. The proforma agreement clause in D-175 itself shows Pernod would not have entered into an arrangement if a binding contract with USL already existed.

46. It is argued that BSPL, holding established brands such as Kingfisher, McDowell No.1, Royal Challenger, Black Dog and Johnnie Walker, would naturally benefit commercially irrespective of policy changes. It made no representation to the Ravi Dhawan Committee and did not participate in policy-related meetings. Under the earlier policy, commercial risks lay largely with manufacturers; under the new policy, risks shifted to BSPL as L-1 licensee. Higher margins were commercially justified to offset these additional liabilities, and the prosecution has undertaken no comparative margin analysis. The

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allegation relating to credit notes to Ace Finance and alleged cash routing is unsupported. Monthly reconciliations were undertaken and dues fully recovered. Neither BSPL's nor Ace Finance's books show entries corresponding to alleged cash payments. BSPL has no employee named Harjinder, and witness statements are inconsistent on the identity of the alleged collector. The Ace Finance ledger (D-184) shows cash withdrawals under "Special Expenses" but does not link them to BSPL credit notes. The one-page ledger (D-183) is inconsistent with the broader record. There is no evidence of any instruction by BSPL to withdraw cash, and any acts of Ace Finance cannot be imputed to BSPL absent proof of direction or conspiracy. On the contrary, statements indicate that alleged cash payments, if any, related to the personal licensing issues of Dinesh Arora. Income Tax proceedings against Ace Finance do not establish any nexus with BSPL or A-9.

47. In the totality of circumstances, it is submitted that the prosecution material discloses no criminal intent, conspiracy or unlawful gain on the part of A-9. Issuance of credit notes was a commercially rational and industry-recognised practice resulting in demonstrable sales growth. The allegations rest on conjecture and selective reading of evidence and do not satisfy even the threshold of grave suspicion. Accordingly, no case is made out against A-9.

(XI) Submissions by Ld. Senior Advocate Sh. Shadan Farasat, Ld. Counsels Sh. Shivendra Dwivedi, Ms. Varisha Sharma and Ms. Onmichon Ramrar, for A-10 Arjun Pandey :-

48. It is contended that the FIR dated 17.08.2022 alleges that he collected ₹2–4 crores from A-7 on behalf of A-3. However, this allegation is not consistently reiterated or substantiated in any of the five charge-sheets. On the contrary, in his further statement dated 17.10.2024, PW-20 (approver) stated that ₹1 crore was routed through Raman Chawla to Sarvesh Mishra and ₹2 crores were directly handed over to PW-20 by A-7 and his staff, which is inconsistent with the FIR version and negates the role attributed to A-10. The prosecution alleges that A-10 was present with A-3 at a meeting with PW-101 Suresh Menon on 01.03.2021 at Hotel Taj, where illegal gratification was allegedly demanded. However, PW-101's statement records that A-10 remained silent, and PW-102 and PW-103 do not even refer to him. Similarly, with respect to the alleged meeting at Gauri

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Apartment on 21.05.2021, PW-1 and PW-2 state that A-10 did not speak and was only a silent spectator. The statement of approver PW-20 dated 21.09.2022 also attributes no overt act to him, and none of PW-20's subsequent statements or his statement u/s 164 CrPC implicate A-10.

49. It is also contended that in the first supplementary charge-sheet, reliance is placed on his designation as President (Sales & Marketing) of India Ahead News and his alleged presence at various meetings. It is submitted that he was appointed on 11.06.2020, prior to the constitution of the Ravi Dhawan Committee and prior to the Excise Policy framework, and his role was confined to revenue generation through advertisements and sponsorships. Even in the prosecution material, he is consistently described as a silent spectator. Allegations regarding meetings at Hotel Oberoi and Hotel Lodhi are unsupported by any specific statement or documentary evidence. As regards credit notes, PW-20 alleges that he and A-10 contacted A-9. This allegation is not repeated in PW-20's other statements or his statement u/s 164 Cr.P.C. and finds no independent corroboration, except in the statement of PW-226 Raghav Magunta dated 12.12.2023. An uncorroborated approver version, especially with improvements, cannot be the sole basis for framing charge. The prosecution relies on transfers of ₹70 lakhs from M/s Indo Spirits to India Ahead News Ltd. and ₹1 crore to Andhra Prabha Publications Ltd., and characterises his salary of ₹5 lakhs per month as "hefty". There is no material to show that A-10 had any role in or knowledge of these transfers. Mere employment in a recipient company cannot establish conspiracy. His salary, considering his senior position and experience, cannot give rise to any criminal inference.

50. It is further argued that the WhatsApp chats involving Devang Solanki and A-15 do not incriminate A-10. Routine professional interaction does not establish conspiracy. The allegation that he facilitated employment of PW-195 Ashok Kumar Kaushik is also legally neutral, there being no material to show knowledge or intent to further any illegal design. PW-226 further alleges that credit notes worth ₹1 crore were received on the instructions of A-10; this assertion is uncorroborated by any independent evidence.

51. At the stage of charge, it is submitted that where only suspicion and not grave suspicion arises, the view favourable to the accused must prevail. The case against A-10 rests substantially on uncorroborated and inconsistent approver

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statements. Mere presence at meetings or being a silent spectator does not satisfy the ingredients of conspiracy u/s 120-B IPC, which requires an agreement and meeting of minds. There is no overt act attributed to A-10, no material showing any benefit to him, and no allegation of his contact with any public servant. The material, taken cumulatively, does not disclose any *prima facie* case against A-10.

(XII) Submissions by Ld. Senior Advocate Sh. Arshdeep Singh Khurana, Ld. Counsels Sh. Abhishek Singh, Sh. Talib Mustafa, Sh. Anmol Aggarwal, Sh. Ketan Kumar Roy, Sh. Vishvendra Tomar, Sh. Harsh Srivastava, Ms. Dikksha Ramnani and Sh. Chetan Nagpal, for A-11 Butchibabu Gorantla :-

52. It is submitted that the prosecution alleges that A-11 attended certain meetings between March and September 2021 at Hotel Oberoi, Gauri Apartments, ITC Kohinoor (Hyderabad) and Hotel Taj, Delhi. Regarding Hotel Oberoi (14–17.03.2021), the allegation rests solely on presence. No witness states that any discussion on Excise Policy, demand of bribe or unlawful act took place involving A-11. The allegation that 36 pages of policy were printed from the hotel is unsupported—no document, CCTV footage, forensic link, receipt or electronic trail connects him with such activity. PW-71 and PW-72 have stated that the policy comprised only 25–26 pages, rendering the allegation improbable. As to Gauri Apartments and ITC Kohinoor, the statements of PW-20, PW-1 and PW-2 at best show that A-11 spoke on financial and market aspects. None attributes to him any role in policy formulation, demand or payment of bribe, influencing public servants, or unlawful decision-making. The Hotel Taj meeting (20.09.2021) allegedly related to appointment of M/s Indo Spirits as wholesaler for M/s Pernod Ricard. A-11 had no role in such appointment, which was a purely commercial decision. He was neither beneficiary nor stakeholder.

53. It is further submitted that the allegation of demand of ₹50 crores or facilitation of ₹10 crores (Chennai) rests primarily on the statement of Raghav Magunta dated 12.12.2023, recorded when he was an accused and prior to grant of pardon. Such statement cannot retrospectively become approver evidence. There is no independent corroboration. PW-227 (Gopi Kumaran) does not know the recipient, address or place of delivery. No recovery, financial trail, document or electronic evidence connects A-11 to any payment. Seized devices yielded

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nothing incriminating. Lawful loan transactions of ₹1 crore with Mootha Gowtham (April/May 2021) are sought to be portrayed as tainted. These pre-date the alleged offence period. Bank statements showing payment and repayment were produced and placed on record. The prosecution itself alleges generation of proceeds of crime only after November 2021, yet has relegated exculpatory material to unrelied documents.

54. It is argued that the allegation that A-11 was partner/signatory to a Joint Venture Agreement with IMPL is unsustainable. No document bearing his signature has been produced. The alleged JV Agreement shows inconsistencies in stamp date (31.03.2021), agreement date (01.09.2021) and notarisation date (14.10.2021). The original has not been seized; signatures differ; MCA records do not show him as shareholder, director or KMP; CDRs do not place him in Delhi on the notarisation date; the notary has not been examined and no notarial register seized. The WhatsApp chats allegedly extracted from his device are unsupported by CFSL report, hash value or Section 65B certificate. Source is unclear ("Web" shown), extraction was not as per protocol, and there was unexplained delay in FSL dispatch. In any event, the chats contain no reference to bribe, illegal gratification or public servants, and none of the discussed provisions were implemented.

55. It is also argued that the property discussion alleged as recoupment of ₹14 crores is misconceived. The prosecution's own case concerns wholesalers, whereas the concerned party was a retailer. Chats with Madhu Gorla show no nexus with the alleged conspiracy. Price escalation reflects market appreciation (₹14 crores in 2019 to ₹28 crores in 2021; PW-226 states ₹16 crores in 2019). No agreement materialised and no benefit accrued. A-11 merely circulated templates and did not negotiate or finalise any transaction. Even if the prosecution material is taken at its highest, A-11 is not shown to be investor, licensee, policy influencer or beneficiary. No motive, gain, demand or acceptance of bribe is alleged. No corrupt arrangement with any public servant is shown. Essential ingredients of conspiracy and offences under the PC Act are absent. The case rests on conjecture, uncorroborated statements and procedurally defective electronic material. There is no material showing agreement, corrupt intent, unlawful gain or participation in any illegal act. No grave suspicion arises against A-11. Accordingly, A-11 is entitled to discharge.

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(XIII) Submissions by Ld. Counsels Sh. Rajat Bhardwaj and Sh. Dushyant Chaudhary, for A-12 Rajesh Joshi :-

56. It is contended that A-12 was neither named in the FIR dated 17.08.2022 nor arraigned in the main charge-sheet dated 24.11.2022 or the supplementary charge-sheet dated 25.04.2023. He has been implicated for the first time in the Second Supplementary Charge-sheet dated 08.07.2023, without any fresh incriminating material. The very same material, on which earlier charge-sheets were filed without arraigning him, has now been relied upon. Such belated implication, founded on conjecture and not on new evidence, is impermissible in criminal law. As per the prosecution's own case, he is the Director of M/s Chariot Productions Media Pvt. Ltd., a company engaged in providing media and campaign-related services in the ordinary course of business. The only allegation pertains to alleged movement of certain funds. There is no allegation that he participated in any policy-related meeting, had knowledge of generation of alleged proceeds of crime, or committed any specific overt act. He is also not alleged to be a beneficiary of any alleged illegal amount. In the absence of a defined role and mens rea, no criminal liability can be fastened upon him.

57. It is further contended that the investigation, insofar as it concerns him, reflects a pre-determined approach. The statements relied upon contain material variations and improvements, and the allegations regarding his directorship and supposed involvement in money laundering for campaign purposes are unsupported by substantive evidence. The prosecution mainly relies on statements of persons who are admitted participants in alleged hawala transactions but have not been arraigned as accused and thus stand on the footing of accomplices. It is settled law that uncorroborated accomplice testimony cannot form the basis even for framing of charge unless supported by independent material. In the present case, there is no independent admissible evidence connecting him with any offence so as to raise even a strong suspicion.

58. It is also contended that M/s Chariot Productions Media Pvt. Ltd. has an established history of providing media and campaign services such as event management, surveys and vendor coordination. Engagement of vendors is routine industry practice. PW-164 has stated that the Goa premises were rented only from January 2020 to January 2021. PW-169 has clarified that salary transfers related

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only to specific months of 2020 and were later discontinued. Vendor witnesses (PW-174 to PW-179) have deposed that payments were made against services rendered and duly accounted. The work value and payments on record show transparent commercial transactions, with no link to any alleged proceeds of crime.

59. It is argued that the allegation of receipt of part of the alleged upfront money rests solely on PW-20 (approver). Even in his earliest statement, A-12 was not named. In the statement u/s 164 CrPC, reference is made to "Rajesh Sharma" and not to A-12. There is no independent statement or documentary trail showing that he received any amount. The version that he handled cash is wholly uncorroborated. In view of the inconsistencies in PW-20's statements and lack of corroboration, no inference of conspiracy can be drawn. Regarding alleged cash transfers through angadia channels, the statements of PW-183 suffer from contradictions as to dates, amounts and instances. Statements under Sections 161 and 164 CrPC show material shifts without explanation. Importantly, none of these statements connect the alleged transfers to the Excise Policy or to A-12. As to alleged distribution of cash to vendors, the vendors have categorically stated that payments were made for legitimate services. Purchase orders, invoices and receipts are on record. The quantum of cash reflected is minimal compared to total work and is duly accounted. The prosecution's own documents show transactions through normal commercial channels, with no material indicating circulation of illicit funds.

60. It is submitted that no material discloses any agreement or meeting of minds involving A-12. Mere association with a service-providing company cannot amount to criminal conspiracy. The essential ingredients of Section 120-B IPC, namely a prior agreement to commit an illegal act, are wholly absent. No witness attributes to him any role in the formulation or implementation of the Excise Policy, nor is any overt act or criminal intent shown. At the stage of framing of charge, the Court must see whether the material discloses the essential ingredients of the alleged offences and raises a strong suspicion. Even if taken at its highest, the material does not disclose a prima facie case against A-12. The prosecution case rests on conjecture, presumptions and impermissible inference of vicarious liability, without evidence of demand, receipt, handling of illegal gratification, or participation in conspiracy. Continuation of proceedings in these circumstances

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would subject him to a speculative and unwarranted trial. He is therefore entitled to be discharged.

(XIV) & (XV) Submissions by Ld. Counsels Sh. Rajat Bhardwaj and Sh. Dushyant Chaudhary, for A-13 Damodar Prasad Sharma and A-14 Prince Kumar :-

61. It is contended that A-13 and A-14 were neither named in the FIR dated 17.08.2022 nor arrayed in the main charge-sheet dated 24.11.2022 or the first supplementary charge-sheet dated 25.04.2023. They have been implicated for the first time only in the second supplementary charge-sheet dated 08.07.2023, without any fresh incriminating material. The implication is based on the same material earlier found insufficient, rendering the belated arraignment legally unsustainable. As per the prosecution itself, A-13 and A-14 were employees of M/s Chariot Media Productions, engaged in media and advertisement services in the ordinary course of business. The only allegation is of alleged movement of funds. It is not alleged that they participated in any Excise Policy meeting, had knowledge of generation of proceeds of crime, committed any overt act, or were beneficiaries of any alleged illegal money. In the absence of a defined role and mens rea, criminal liability cannot be inferred.

62. It is also contended that the allegation against A-13 rests mainly on statements of PW-183 and PW-171. There is no independent or documentary evidence linking him to any offence or money trail. The alleged transfer of funds from Delhi to Goa is unsupported by material showing origin, source, delivery or destination of funds, or any nexus with proceeds of crime under the Excise Policy. The money trail is broken and unestablished. The investigation reflects a predetermined approach, with material inconsistencies and improvements in statements. The prosecution relies primarily on statements of persons admittedly involved in hawala transactions, who in law are accomplices. It is settled that uncorroborated accomplice testimony cannot form the basis even for framing of charge. No independent admissible corroboration exists.

63. It is argued that the allegation of hawala payment to PW-171 (₹2.45 lakhs and ₹4.25 lakhs) is founded on statements of PW-172 and PW-173. Their

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statements are identically structured, raising doubts about authenticity. No hawala operator identifies A-13 by full particulars or links him through mobile numbers or other identifiers. The alleged receipts (D-218 and D-219) do not mention the sender's name or connect them to A-13. The alleged Mumbai transactions show no linkage to Goa, to vendors, or to any Excise Policy activity. Regarding the allegation of cash of ₹11.93 crores allegedly handled by Rajesh Joshi as per PW-183, the statements under Sections 161 and 164 CrPC are materially inconsistent as to period and amount (6–7 crores, then 4–5 crores, and later a new instance of ₹5 crores). These shifting versions, absence of specificity in earlier statements, and unexplained introduction of new details seriously undermine credibility. Further, none of these statements assert any connection of the funds with the Excise Policy or proceeds of crime. As regards A-14, the allegation of receipt of ₹16,08,000 via hawala at Goa rests solely on PW-180. There is no material to show knowledge of the alleged source of funds or any nexus with an offence. There is no independent corroboration regarding delivery, utilisation or onward movement of funds. Apart from PW-180's statements dated 04.05.2023 and 26.06.2023, no witness or document attributes any role to A-14.

64. It is submitted that no material discloses any agreement or meeting of minds involving Accused Nos. 13 and 14 so as to attract Section 120-B IPC. Mere employment or peripheral association cannot substitute proof of conspiracy. Even witnesses referring to hawala transactions do not attribute to them any role in collection, transportation or distribution of funds. At the stage of framing of charge, the Court must see whether the material discloses essential ingredients of the offences and raises grave suspicion. Even if taken at face value, the prosecution material does not disclose a prima facie case against Accused Nos. 13 and 14. The case rests on conjecture and uncorroborated statements, without proof of demand, receipt, handling of illegal gratification, or participation in conspiracy. It is, therefore, respectfully prayed that A-13 and A-14 be discharged.

(XVI) Submissions by Ld. Counsels Sh. Rajat Bhardwaj and Sh. Dushyant Chaudhary, for A-15 Arvind Kumar Singh :-

65. It is contended that A-15 was not named in the FIR dated 17.08.2022, nor was he arrayed as an accused in the main charge-sheet dated 24.11.2022 or the first supplementary charge-sheet dated 25.04.2023. He was implicated for the first

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time only in the second supplementary charge-sheet dated 08.07.2023. No fresh material has been shown to have emerged in the interregnum. His belated arraignment on the basis of material earlier considered insufficient renders the prosecution against him unsustainable. As per the prosecution record, A-15 is an employee of India Ahead News, a national news channel. The sole allegation is of alleged involvement in movement of funds. There is no allegation that he participated in any Excise Policy meeting, influenced any public servant, negotiated or received illegal gratification, or had knowledge of any alleged proceeds of crime. In the absence of a defined role, criminal liability cannot be presumed. The investigation rests on inferences rather than substantive evidence. The statements relied upon suffer from contradictions and material improvements. The allegation that A-15 laundered funds for any political campaign merely because of his employment lacks evidentiary foundation. The case against A-15 rests primarily on statements of persons admittedly engaged in hawala transactions, who are accomplices in law. In the absence of independent corroboration on material particulars, such statements cannot form the basis even for framing of charge. No such admissible corroboration exists. The allegation that A-15 provided cash in Delhi to PW-191 (Devang Solanki) for onward hawala transfer of ₹7,10,92,500/- to A-16 in Goa between 04.01.2022 and 10.01.2022 through PW-180 (Sagar Kumar Patel of M/s R. Kantilal Finance) is unsupported. PW-180's earliest statement dated 04.05.2023 records transactions between 21.06.2021 and 10.01.2022 aggregating to ₹15,50,10,500/-, without any reference to October or November 2021 transactions. In a later statement dated 25.05.2023, he introduced 26 transactions of November 2021 amounting to ₹27 crores, which were absent earlier. These unexplained improvements render his version unreliable.

66. It is also contended that PW-191, in his statement u/s 164 CrPC, stated that he was cooperating with the CBI and did not know anything beyond what was put to him. Such equivocal and uncorroborated testimony cannot generate grave suspicion. Further, his statement u/s 161 CrPC is in English, whereas his handwritten Section 164 CrPC statement is entirely in Hindi, raising serious doubts as to authorship and comprehension. No agreement or meeting of minds is alleged or established so as to attract Section 120-B IPC. Mere employment or association cannot substitute proof of conspiracy. Even witnesses speaking of

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hawala transactions do not attribute to A-15 any role in collection, transportation or distribution of funds.

67. At the stage of framing of charge, the Court must find material disclosing essential ingredients of the alleged offences and grave suspicion. Even if the prosecution material is accepted at its highest, no such ingredients are made out against A-15. The allegations rest on inference and uncorroborated statements without proof of demand, acceptance, handling of illegal gratification or participation in conspiracy. Accordingly, A-15 is entitled to discharge.

(XVII) Submissions by Ld. Senior Advocate Sh. Ramesh Gupta, Sh. Shailendra Singh, Ms. Baani Khanna, Sh. Robin Singh, Sh. Kapil Balwani and Ms. Komal Thakkar, for A-16 Chanpreet Singh Rayat :-

68. It is submitted that A-16 has been arraigned for the first time in the Second Supplementary Chargesheet dated 08.07.2023. Neither the main chargesheet dated 24.11.2022 nor the first supplementary chargesheet dated 25.04.2023 contains any allegation or material against him. Even thereafter, no fresh or independent material has been brought on record to justify his arraignment. The prosecution seeks to implicate A-16 solely on the allegation of alleged handling or transfer of certain amounts. No role is attributed to him in the formulation or implementation of the Excise Policy, in receipt or payment of any illegal gratification, or in any policy-level decision. There is no allegation of any meeting of minds or participation in any criminal design. Even if the prosecution case is assumed to be correct, the essential ingredients of offences u/s 120-B IPC r/w Sections 7, 7A, 8 and 12 of the PC Act are not made out qua A-16. There is no material showing agreement, knowledge or conscious participation.

69. It is further submitted that it is settled law that further investigation under Section 173(8) CrPC after filing of a chargesheet requires prior leave of the Court. In the present case, no independent judicial permission was obtained before filing the second, third and fourth supplementary chargesheets. The so-called permission paragraphs are mechanical reproductions and do not reflect fresh judicial consideration. The supplementary chargesheets rely upon material already available at the time of filing of the original chargesheet and therefore amount to continuation of investigation without judicial sanction. The FIR does not name

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A-16 nor attribute any role to him. His belated arraignment, without fresh judicial permission and without independent material, is arbitrary.

70. It is argued that criminal conspiracy requires proof of agreement and conscious participation. The prosecution itself admits that A-16 had no role in the Excise Policy and no connection with the "South Group." There is no allegation that he demanded, paid or received any bribe. Mere association or handling of money, without knowledge and agreement, does not constitute conspiracy. The prosecution has failed to establish any coherent and admissible money trail linking A-16 with any alleged proceeds of crime or showing knowledge of their source. The sole allegation is that he distributed certain amounts allegedly received through angadias. The angadias themselves have been treated as witnesses on the footing that they had no knowledge of the origin of the money, yet A-16 has been arraigned without any material showing conscious possession or knowledge of illicit origin.

71. It is also argued that the statements of PW-180, PW-182, PW-183 and PW-186, even if accepted at face value, merely state delivery of certain amounts and do not establish knowledge, agreement or participation in any unlawful design. The Angadia records (D-211) disclose discrepancies and inconsistencies in the amounts attributed to A-16, with contradictions and subsequent improvements, rendering the material unreliable. At the stage of charge, legally admissible material disclosing the essential ingredients of the alleged offences must exist. In the present case, there is no prima facie material demonstrating agreement, mens rea, conscious possession or participation in any conspiracy by A-16. The prosecution case rests on conjecture and inference without independent corroboration. Accordingly, A-16 is entitled to discharge.

(XVIII) Submissions by Ld. Counsels Sh. P. Mohit Rao and Sh. Eugene S. Philomene, for A-17 K. Kavitha :-

72. It has been urged on behalf of A-17 that her implication in the present case is wholly unwarranted and appears to be premised more upon her public and political profile than upon any cogent material connecting her with the alleged offences. Learned counsel submits that the record does not disclose her participation in any meeting alleged to have been convened for an unlawful

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purpose. No contemporaneous document, travel record, electronic communication, or independent witness is shown to place her at any such conspiratorial discussion as projected by the investigating agency.

73. It is further contended that certain isolated and otherwise lawful contractual or commercial arrangements have been retrospectively coloured as elements of a criminal conspiracy, without establishing the essential ingredients of agreement, common design, or unlawful object. It is emphasised that suspicion, however strong, cannot substitute proof of a meeting of minds, and that routine commercial dealings, in the absence of demonstrable mens rea, cannot be converted into criminal conduct by mere assertion.

74. With regard to the alleged land transaction, learned counsel points out that the agreement to sell was never brought to fruition. The transaction did not culminate in any conveyance of property, and the advance amount is stated to have been returned. In such a situation, it is submitted that the very fact that the arrangement was aborted and reversed militates against the theory that it was conceived as a conduit for illicit gain or recoupment. It is also urged that A-17 has been projected as a central figure in the alleged conspiracy despite the absence of material showing her physical presence in Delhi during the relevant period. There is no evidence of her having travelled to Delhi at the time when key meetings are alleged to have taken place. Nor is there any material to show that she applied, directly or indirectly, for any retail zone (L-7) or wholesale (L-1) licence under the New Excise Policy. She is not shown to have held any statutory position in the licensing framework, nor to have exercised any decision-making authority in the formulation or implementation of the policy.

75. Most significantly, it is submitted that A-17 cannot be made vicariously liable for the alleged acts of others in the absence of a statutory provision creating such liability or clear evidence of her participation in a criminal agreement. Criminal law, as a rule, does not recognise vicarious liability unless expressly provided by statute. Liability must arise from personal involvement—either through direct participation, abetment, or conscious sharing of a common intention. The mere fact that other accused persons are alleged to have acted in a particular manner cannot, without more, fasten criminal responsibility upon her. Guilt by association or by inference from the acts of others is alien to the settled principles governing criminal jurisprudence.

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76. It is further submitted that the role attributed to her rests largely on statements of co-accused or witnesses whose own involvement in the alleged chain of events renders their assertions inherently weak and in need of independent corroboration. In the absence of reliable material establishing an overt act, pecuniary gain, or conscious participation on her part, the attribution of liability is stated to be speculative. On these grounds, learned counsel prays that this Court may hold that no prima facie case or grave suspicion arises against A-17, and that she be discharged from the present proceedings.

(XIX) Submissions by Ld. Senior Advocate Sh. N. Hariharan, Ld. Counsels Sh. Mudit Jain, Mohd. Irshad, Mohd. Asgar Ali, Sh. Rudraksh Nakra, Sh. Ayush Goswami, Sh. Lakshya Aggarwal, Sh. Harjas Singh Gujral, Ms. Samta Sharma, Ms. Sona Singh, Ms. Vasudhra Raj Tyagi, Sh. Aman Akhtar, Sh. Arjun Singh Mandla, Ms. Vasundhara N., Ms. Punya Rekha Angora, Sh. Amaan Shreyas, Ms. Sana Singh and Ms. Mahima Malhotra, for A-18 Arvind Kejriwal :-

77. It is submitted that the allegations levelled by the investigating agency stand in direct contradiction to the contemporaneous record and the documented evolution of the Delhi Excise Policy 2021–22. A holistic and comparative reading of the Ravi Dhawan Committee Report, successive drafts placed before the Group of Ministers, the recommendations of the Hon'ble Lieutenant Governor, and the Final Policy dated 21.05.2021 clearly reveals that the provisions now impugned were the result of deliberation, consultation and rational modification over time. The material on record demonstrates an incremental policy process rather than any abrupt or clandestine alteration. Under the earlier regime, brand registration was classified into Free Pricing and Non-Free Pricing. The minimum sale requirement applicable to non-free pricing had been in existence for over two decades. The Committee noted that certain brands with negligible national presence were utilising the free pricing route, resulting in brand pushing in the Delhi market. To address this concern and to safeguard consumer interest, the Committee proposed tightening eligibility criteria and revising minimum sale requirements. Thereafter, the draft dated 18.03.2021 introduced the concept of fixed-cum-lowest EDP. In the subsequent deliberations dated 05.04.2021, it was

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clarified that inputs relating to MRP would be provided to the Excise Commissioner. This position found place in the Final Policy. The trajectory of these changes reflects regulatory tightening to prevent misuse and enhance consumer protection, and not the conferment of any undue advantage.

78. It is further submitted that similarly, while the earlier policy did not permit discounts, the Committee recorded that there should be no objection to discounts or rebates by wholesalers or retailers, subject to oversight. This approach was consistently reflected in the drafts and ultimately incorporated in the Final Policy. The allowance of discounts was thus a conscious policy choice directed at market rationalisation and consumer benefit, duly reflected in official documents. In relation to the wholesale model, the Committee identified systemic issues such as proxy retailers, duplicate barcoding and non-payment of duty, and recommended that wholesale operations be placed under a government entity. The Group of Ministers examined models adopted in other States and recorded that under the revised duty structure, the earlier advantage of centralised collection stood neutralised.

79. It was further observed that the Government was not immediately positioned to establish warehousing and logistics infrastructure necessary for uninterrupted supply, and that a deeper study and phased implementation would be required. Pending a final decision on the Committee's model, it was resolved that L1 licences could be issued to private entities to ensure continuity of trade and revenue stability. Simultaneously, safeguards were introduced, including prohibition of proxy retailers, strict barcoding measures, advance receipt of duty and revenue, and quality control mechanisms. The decision not to adopt the corporation route was thus reasoned and recorded. The Committee emphasised prevention of monopolistic tendencies and recommended rotation of licensees and grant of licences only to eligible entities. The requirement of ten years' wholesale distribution experience was subsequently modified to a minimum of five years in later drafts and retained in the Final Policy. The turnover criteria underwent successive revisions: from ₹100 crore for the last five years in the draft dated 15.03.2021, to ₹500 crore, thereafter rationalised to ₹250 crore for the last three years, and further considered at ₹150 crore in the LG's recommendation, before being reflected in the Final Policy. The annual L1 licence fee was initially ₹10 crore and was subsequently reduced to ₹5 crore. Each of these modifications is

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traceable to recorded deliberations. The progressive rationalisation of experience, turnover and fee requirements reflects responsive policy-making, not manipulation.

80. It is argued that the framework further incorporated express non-monopoly provisions. The L1 licence holder was kept distinct from the retailer; manufacturers were separated from retail operations; L1 licensees were barred from being manufacturers directly or through proxies; retailers were restricted to two zones; geo-mapping was undertaken to identify structural anomalies; and pre-defined zones were created to ensure equitable distribution. These measures were designed to dismantle proxy arrangements, prevent cartelisation and enhance transparency. The issue of spurious liquor was recognised, and successive drafts incorporated government-approved mechanisms and laboratory testing at warehouses for each batch, systematic checks by L1 licensees, and stringent consequences including cancellation of licence, criminal proceedings, permanent blacklisting and intimation to other States in case of violation. Such measures are wholly inconsistent with any allegation of regulatory dilution.

81. It is also argued that provision was also made for Special Inspection Teams to monitor compliance. Violations of eligibility conditions were to entail permanent bans and forfeiture of licence fees. Institutional oversight was thus strengthened rather than weakened. Further, with respect to distributor margin, while earlier proposals contemplated flexible margins with a minimum 5% distribution fee, the policy ultimately standardised the distribution fee at 12% to cover operational costs, freight, insurance and reasonable profit. The recorded objective was to provide economic viability within a regulated framework and thereby eliminate unethical practices. The Committee had also recorded concerns regarding obsolete and discriminatory brand registration fee structures, brand pushing under free pricing, and poor retail experience. The Group of Ministers recommended abolition of slab systems, introduction of a uniform brand registration fee of ₹1 lakh per brand, rationalisation of fees including for foreign brands, and improvement in the retail experience so as to eliminate brand pushing. These measures were directed towards consumer choice and market competitiveness.

82. It is submitted that in the retail revenue model, auction and lottery systems adopted in other States were studied. The draft dated 15.03.2021 introduced a

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formula-based reserve price calculation, comprising existing licence fee, projected excise and VAT revenue, and additional fee. The draft dated 18.03.2021 revised the formula by including estimated VAT from the HCR segment and reducing the additional fee component, while also extending licence validity to four years. Bidding was restricted to two zones per entity, with structured EMD requirements. These provisions were retained in the Final Policy. The formula-based methodology reflects objective quantification rather than arbitrary allocation.

83. It is also submitted that the retail eligibility and operational conditions were detailed and comprehensive. They included non-refundable application fee, refundable EMD, security deposit, renewal subject to satisfactory conduct, prohibition of spurious liquor and brand pushing, mandatory procurement from L1 licensees, minimum carpet area requirements (later capped), mandatory CCTV installation with retention of recordings for a minimum period, prohibition of sale to minors, bar on manufacturers or wholesalers owning retail shops, two-zone restriction, and provision for cancellation and re-tendering in case of malpractice. Successive drafts either retained or strengthened these safeguards.

84. Ld. Senior Advocate contended that cumulatively, the documentary record demonstrates that the Policy evolved through structured deliberation across Committee recommendations, successive drafts, LG inputs and final approval. Each modification is traceable to recorded reasoning. Safeguards against monopoly, proxy control, spurious liquor, revenue leakage and brand pushing were incorporated and reinforced. Eligibility, turnover and fee provisions were rationalised through multiple iterations. In these circumstances, the suggestion that the Policy was manipulated to confer undue advantage is not borne out by the contemporaneous record. The clause evolution itself evidences transparency, regulatory intent and consultative policy-making. No adverse inference can, therefore, be drawn against Accused No. 18 on the basis of the evolution of the Policy.

(XX) Submissions by Ld. Senior Advocate Sh. Mohit Mathur, Ld. Counsels Sh. Karan Sharma, Sh. Rajan Jain, Sh. Mohit Siwach, Sh. Harsh Gautam and Sh. Vignesh, for A-19 Durgesh Pathak :-

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85. It is submitted that A-19 was not named in the FIR dated 17.08.2022, nor in the main charge-sheet or the first, second or third supplementary charge-sheets. His alleged role appears for the first time only in the fourth supplementary charge-sheet, which itself does not attribute to him any act of demand, acceptance, handling of illegal gratification, or participation in the alleged offences. Even on the prosecution case taken at its highest, no culpable role is disclosed qua A-19. Despite no fresh or additional material, A-19 has been arraigned on assumptions and presumptions, which is impermissible in criminal law. On the same material forming the basis of earlier charge-sheets, a reinvestigation appears to have been undertaken without leave of this Hon'ble Court, rendering the exercise unsustainable. The investigation reflects a predetermined approach to implicate him. A-19 is a political functionary of the Aam Aadmi Party who was engaged in lawful campaign coordination during the Goa Assembly Elections. He is neither a public servant nor alleged to be so under the Prevention of Corruption Act, and held no statutory or governmental office. The prosecution material itself confines his role to political and supervisory activities, which cannot attract criminal liability.

86. It is also submitted that even if accepted at face value, the prosecution case does not disclose the essential ingredients of Section 120-B IPC or Sections 7 and 8 of the Prevention of Corruption Act. The theory of vicarious liability is impermissible in the absence of material showing demand, acceptance, handling of cash or issuance of directions for illegal gratification. The allegation that he was "overall/campaign in-charge" and part of a conspiracy relating to illegal funding is based on inference alone. Witnesses describing him as such do not allege that he handled cash, directed payments, selected vendors, received any pecuniary benefit, or participated in any financial transaction. No agreement or meeting of minds is shown; mere political association or supervision cannot constitute conspiracy. Prosecution witnesses consistently state that alleged cash collection, transportation and distribution were handled by other accused persons. Even witnesses referring to cash parcels or hawala-like mechanisms exclude A-19 from any such role. Proceeding against him would therefore be an abuse of process.

87. It is further submitted that the allegation regarding meetings at Gauri Apartment rests only on statements of a cook and caretaker, who are not

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competent to depose about their object or legality. A-19 is not alleged to have been present, and no participant attributes any role to him. There is no documentary or electronic corroboration. Statements of volunteers are vague and non-specific, disclosing no date, time, place or subject matter of meetings. No material establishes his presence in Goa on dates of alleged cash transactions. One material witness, in her Section 164 CrPC statement, does not even refer to him. The premise that, by holding a supervisory political role, he is liable for acts of others is unsupported. No statement, document or electronic evidence shows that he directed, authorised, facilitated or had knowledge of alleged illegal acts. No witness attributes any overt act or instruction to him.

88. It is contended that the allegation of directions to Charanpreet Singh Rayat is wholly unsupported: no witness specifies when, where or what was directed. The prosecution itself attributes alleged illegal acts to others. There is no allegation of personal benefit, instruction or authorisation qua A-19. No witness states that he instructed anyone to collect money, make cash payments, route funds through angadiyas, or incur illegal election expenditure. No vendor, intermediary, hawala operator or angadiya has named him. There is no allegation of demand, approval or instruction attributable to him. Alleged assurances to candidates regarding election funding or expenditure management are intrinsic to lawful political coordination and are not linked by any witness to receipt of bribe or quid pro quo. Such political reassurance does not amount to demand or acceptance of illegal gratification. At the stage of framing of charge, the Court must see whether the material discloses essential ingredients and raises strong suspicion. On a holistic reading, no such suspicion arises against A-19, as no specific or overt act is attributed to him. Continuation of proceedings would subject him to a roving and speculative trial despite absence of prima facie material. Even if the entire prosecution case is accepted at face value, no offence is made out. The allegations rest on conjecture and impermissible vicarious liability, without material showing demand, acceptance, handling of illegal gratification or conspiracy. The essential ingredients of the alleged offences are absent. A-19 therefore deserves to be discharged.

(XXI) Submissions by Ld. Counsels Sh. Prabhav Ralli, Sh. Dev Vrat Arya, Sh. Samraat Saxena and Ms. Deeya Mittal, for A-20 Amit Arora :-

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89. It is submitted that the prosecution case, as set out in Paras 16.66 to 16.75 of the 4th Supplementary Charge-sheet, is premised on an alleged conspiracy conceived prior to the formulation of the Delhi Excise Policy 2021–22, purportedly in consideration of an upfront bribe of ₹100 crores. Significantly, it is not the prosecution's case that A-20 participated in any pre-policy meetings or deliberations, nor that he had any role in the alleged upfront payment, nor that he was a member of the so-called "South Group". He is also not alleged to be a beneficiary of the policy. His retail entity, M/s Buddy Retail Pvt. Ltd., stands expressly exonerated (Para 16.88, 4th Supplementary Charge-sheet). The prosecution itself asserts that the object of the alleged conspiracy was achieved with the formulation of the policy on 17.11.2021. A-20's name appears for the first time only in relation to the surrender of licence of M/s Mahadev Liquors in May 2022, i.e., nearly seven months thereafter (Para 16.66). Hence, no participation in the original conspiracy can legally be attributed to him. There is no material showing any meeting of minds between A-20 and any public servant for extraction of any consideration from M/s Mahadev Liquors. The allegations relating to the Punjab Excise Department, even if assumed, constitute a distinct and independent transaction and cannot be merged with the alleged conspiracy concerning policy formulation.

90. It is further submitted that the prosecution predicates criminality on three elements: (i) involvement in policy formulation, (ii) receipt of quid pro quo, and (iii) involvement in payment of ₹100 crores. On this basis, Anand Tiwari, Sunny Marwah and Manoj Rai were exonerated (Paras 16.85–16.87). A-20, who stands on an even stronger footing, ought likewise to have been exonerated. Further, sanction u/s 17A PC Act was refused on 28.11.2023 in respect of KAP Sinha, Varun Roojam and Naresh Dubey. The order records that inspections were routine; penalties were lawfully imposed; no link existed with M/s Mahadev Liquors; the alleged donation of ₹51 lakhs was not a bribe; no bribe-giver was identified; and no criminality was found. This order has been accepted by the prosecution and attains finality.

91. It is also submitted that the approver PW-20 (Dinesh Arora), in his statement u/s 164 CrPC statement dated 30.09.2022, does not implicate A-20 in relation to M/s Mahadev Liquors. Pardon was granted on the basis of full and true disclosure, rendering any later attempt to implicate A-20 inconsistent with the

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foundational finding. Statements of Sunny Marwah, Jasdeep Kaur Chadha and Puneet Dewan are legally inadmissible and, in any event, are hearsay. No electronic evidence connects A-20 with any alleged forwarding of screenshots or payments. Manufacturer witnesses (PW-300 to PW-306) do not attribute any role to him; PW-305 Sanjit Padhi admits that he himself approached manufacturers and attributes any alleged assurance only to Dinesh Arora. None of the alleged beneficiaries has been arraigned as accused. No public servant alleges any demand through A-20. In the absence of demand or proof of payment as bribe, no offence under the PC Act is made out. There is no evidence of wrongful gain to attract Section 420 IPC, and no allegation of destruction of evidence to invoke Section 201 IPC. On a cumulative assessment, the allegations against A-20 are legally unsustainable, factually unsupported, and inconsistent with the prosecution's own case. The material does not disclose even a prima facie case or grave suspicion. Accordingly, A-20 is entitled to discharge.

(XXII) Submissions by Ld. Senior Advocate Ms. Rebecca M. John, Ld. Counsels Sh. Gagan Minocha, Ms. Tusharika Mattoo, Sh. Pravir and Ms. Shivani Sehrawat, for A-21 Vinod Chauhan :-

92. It is contended that the prosecution alleges that the Delhi Excise Policy 2021–22 was formulated by A-8 in conspiracy with members of the "South Group" and was modified to extend undue benefits in consideration of an alleged upfront payment of Rs. 90–100 Crore to A-3. It is further alleged that the policy facilitated monopolisation and cartelisation by certain accused persons. It is also alleged that part of the said amount was utilised during 2021–2022 for election-related expenses in Goa. The prosecution claims that Rs. 44.54 Crore was transferred from Delhi to Goa between 21.06.2021 and 10.01.2022 through alleged hawala channels and received at Goa by certain accused and listed witnesses through an angadiya. Insofar as A-21 is concerned, it is alleged that out of the said amount, a sum of Rs. 25.50 Crore was delivered at Goa through him.

93. It is further alleged that bags of cash were collected by LW-195 on the instructions of A-4 from LW-20 and from Naraina/Todapur and delivered to A-21. A-22 and another person handed over the money to LW-189, who transmitted it through angadiyas for delivery at Goa. The allegations, even if taken at their face

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value, rest solely on uncorroborated statements of witnesses. There is no independent documentary evidence, recovery, or contemporaneous record connecting A-21 with the alleged transactions. The case is founded on multiple layers of hearsay, without any material showing physical possession, control, or conscious involvement of A-21. No seizure, electronic record, ledger, communication, or financial trail has been produced to show that A-21 authorised or participated in any alleged hawala transaction. Even the acts attributed to A-22 and others do not establish that they acted under the knowledge or directions of A-21. Mere association cannot establish conspiracy.

94. At the stage of charge, the Court must find grave suspicion based on material on record. The prosecution material does not meet this threshold against A-21. In the absence of direct and legally admissible evidence linking A-21 with the alleged offence, continuation of proceedings would amount to trial on conjecture. The allegations against A-21 are speculative, unsupported by independent corroboration, and insufficient to constitute a prima facie case. Accordingly, A-21 is entitled to be discharged.

(XXIII) Submissions by Ld. Counsels Sh. Harsh Bora, Sh. Sahil Ghai and Sh. Aekansh Agarwal, for A-22 Ashish Mathur :-

95. It is contended that A-22 has been arraigned for the first time in the 4th Supplementary Charge-sheet for offences u/s 120B r/w Sections 201 and 420 IPC and Sections 7, 7A, 8 and 12 of the PC Act. The prosecution alleges that during June–August 2021, LW-195, on instructions of A-4, collected bags of cash from Dinesh Arora and Todapur and delivered them near Mausam Bhavan and Defence Colony. It is further alleged that LW-189 (Chandan), along with LW-190, received ₹3.50 crores from A-22 on 28.09.2021 and 29.09.2021 for hawala transfer, and that ₹22 crores was later delivered through Tara Singh for similar transfer. Reliance is placed on Call Detail Records showing telephonic contact between A-22 and Chandan during August–September 2021, and it is alleged that ₹25.50 crores was transmitted to Goa through angadiyas. It is submitted that no substantive offence is made out against A-22. The sole allegation is that he acted as a conduit for money transfer. Except statements of Chandan and Sarvesh, the

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only material is CDRs (D-370), which merely show telephonic contact and do not establish conspiracy or knowledge of any unlawful purpose.

96. It is further contended that there is no allegation that A-22 was involved in formulation or implementation of the Excise Policy or that he had knowledge of the same. He has no connection with the liquor business, any public servant or political functionary, and no meeting of minds with any accused is alleged. Mere transfer of money between private persons, even if assumed, does not attract IPC or PC Act offences. There is no material to show that A-21 ever handed over money to A-22 or instructed him. There is also no allegation or evidence connecting A-22 with Preet (A-6) or Rajiv Mondkar (LW-181). Further, the allegation of delivery of ₹22 crores is unreliable. Chandan's statements show material and unexplained improvements. In statements dated 13.05.2023 and 17.05.2023, he refers only to ₹3.5 crores. In the statement dated 06.06.2023, he alleges ₹14.5 crores, and in the statement dated 15.06.2023, the figure is improved to ₹22 crores without date or particulars. Sarvesh (LW-190) does not support these later allegations. It is admitted that there are no calls between A-22 and Chandan after September 2021. There is a fatal gap of two to four months between the alleged receipt of money by A-21 in June 2021 and the alleged transfer by A-22 in September–November 2021, showing no continuity of any alleged money trail. Chandan himself admits prior independent dealings with A-22 unrelated to the present case.

97. It is argued that no incriminating material has been recovered from the mobile phone data of A-22 (D-362, D-363, SCS-4). The investigation reflects discriminatory selection. A-22 stands on the same footing as Chandan, Sarvesh and angadiyas, private individuals allegedly transferring money, yet only he has been arraigned without explanation. Accordingly, even if the prosecution material is taken at its highest, no prima facie case or grave suspicion arises against A-22. The essential ingredients of the alleged offences are absent, and he is entitled to discharge.

(XXIV) Submissions by Ld. Senior Advocate Sh. Vikas Pahwa, Ld. Counsels Sh. Mayank Jain, Sh. Madhur Jain, Sh. Navlendu Kumar, Sh. Vivek Chandra Jaiswal, Sh. Sahil Yadav and Sh. Arpit Goel, for A-23 P. Sarath Chandra Reddy :-

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98. It is submitted that at the stage of charge, the Court is required to examine whether the material discloses the essential ingredients of the alleged offences. Even if the prosecution case is taken at its highest, no offence under the IPC or the PC Act is made out against A-23. The prosecution alleges that an Agreement to Sell dated 12.07.2021 for ₹28 crores was executed between M/s Mahira Ventures (Aurobindo Group) and A-17, pursuant to which ₹14 crores was paid, though no land transfer took place, and that the amount represented payment for securing favours in the Delhi Liquor Policy. There is, however, no material establishing any nexus between this transaction and any inducement of a public servant. The inference is sought to be drawn solely from temporal proximity, which cannot substitute proof of linkage with any official act or omission. A-23 is not a public servant; hence Section 7 PC Act is inapplicable. There is no material to attract Sections 7A, 8 or 12 PC Act, as there is no allegation or proof that he accepted or obtained any undue advantage to influence a public servant. The statements of PW-234 and PW-235 merely prove the existence of the agreement and do not attribute any criminal intent to A-23. The record further shows that Mahira Ventures (now Auro Realty Pvt. Ltd.) issued a legal notice dated 30.05.2022 seeking refund for non-fulfilment of contractual obligations and that the advance amount was returned, rendering the transaction a commercial dispute rather than a criminal act.

99. It is also submitted that the allegation regarding a CSR donation of ₹80 lakhs to Telangana Jagruti being linked to the Excise Policy is unsupported by any witness statement, documentary material or financial trail connecting it to issuance of licences or inducement of any public servant. The allegation that A-23 controlled Trident, Organomix and Avantika so as to hold five retail zones in excess of the policy cap, at the highest, raises a regulatory issue under the Excise Policy. It does not constitute an offence under the IPC or PC Act. Clause 4.1.2 of the Policy requires proof of common ownership or group control, which is absent. Allegations of cartelisation, even if assumed, do not attract penal liability in the absence of a specific statutory offence.The prosecution further alleges recoupment of bribe by non-payment of ₹46.88 crores to M/s Indo Spirits. The records show that out of the alleged ₹60 crores, only ₹21.56 crores related to Trident, and payments of approximately ₹37.81 crores were made between November 2021 and July 2022. The amount has not been written off, and recovery proceedings are

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pending before the Hon'ble NCLT, Hyderabad, with separate litigation concerning policy deductions. These facts negate the theory of deliberate recoupment and demonstrate the commercial nature of the dispute.

100. It is contended that the allegation of issuance of fake credit notes of ₹1.57 crores is equally unsustainable. Credit notes are routine trade discounts between L1 licensees and retailers. There is no material showing falsity or fraudulent intent. The allegation that A-23 conspired to secure distributorship for M/s Indo Spirits Ltd. rests only on statements showing his presence in certain meetings. Mere presence does not establish agreement or meeting of minds. The meetings of March and May 2021 did not involve any public servant. There is no material to show that A-23 influenced any public servant or participated in formulation of policy. For Section 120-B IPC, a prior agreement to commit an illegal act must be shown. No such agreement, overt act, inducement of a public servant or unlawful gain is established against A-23. In the absence of foundational facts constituting offences under the IPC or PC Act, continuation of proceedings would amount to an unwarranted trial. A-23 is, therefore, entitled to discharge.

(Jitendra Singh)
Special Judge (PC Act) CBI-23
(MPs/MLAs Cases)
Rouse Avenue Court Complex,
New Delhi; 27.02.2026

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