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

Judgment reserved on: 13.04.2026
Judgment pronounced on: 20.04.2026
Judgment uploaded on: 20.04.2026

\+ **<u>CRL.REV.P. 134/2026 & CRL.M.A. 6853/2026</u>**

CENTRAL BUREAU OF INVESTIGATION .....Petitioner

Through: Mr. Tushar Mehta, SG, Mr. S.V. Raju, Mr. D.P. Singh and Mr. Chatan Sharma, ASGs, with Mr. Zoheb Hossain, Mr. Manu Mishra, Ms. Garima Saxena, Mr. Venkatesh, Mr. Vivek Gurnani, Ms. Tanvi Jain, Mr. Pranjal Tripathi and Mr. Imaan Khera, Advocates alongwith Mr. J. S. Randhawa - DIG, Mr. Alok Shahi -ASP, Mr. I. B. Pendhari-SP (CBI) and Mr. Naveen, Sub-Inspector for CBI.

versus

KULDEEP SINGH & ORS. .....Respondents

Through: Mr. Tushar Agarwal, Mr. Naveen Kumar, Mr. Arun Kumar, Mr. Abhishek Mahal and Ms. Rashi Chaudhary, Advocates for R-1.

Mr. Pradeep Rana and Mr. Tushar Rohmetra, Advocates for R-2

Mr. Shadan Farasat, Sr. Advocate, Mr. Harshit Anand, Ms. Varisha Sharma and Ms. Suvarna Swain, Advocates for R-3

Mr. Sumer Singh Boparai, Mr. Surya Pratap Singh, Mr. Abhilash Pathak and Mr. Sirhaan Seth, Advocates for R-4

Mr. Nitesh Rana, Ms. Zainab Khan, Mr. Aditya Narayan, Ms. Aditi Singh and Mr. Suyash Pandey, Advocates for R-5

Mr. Shivendra Dwivedi and Ms. Onmichon

Ramrar, Advocates for R-6 and R-10
Mr. Dhruv Gupta and Mr. Anubhav Garg, Advocates for R-7
Mr. Sanjay Hegde, Senior Advocate with Mr. Vivek Jain, Mohd. Irshad, Mr. Sadiq Noor, Mr. Ankit Tiwari and Mr. Angad Pathak, Advocates for R-8.
Mr. Adit S. Pujari, Mr. Shashwat Sarin, Mr. Shaurya Mittal and Ms. Dhanya Visweswaran, Advocates for R-9.
Mr Abhishek Singh, Mr Vishvendra Singh, Mr Talib Mustafa, Mr Ketan Kumar Roy and Mr Shubh Mathur, Advocates for R-11.
Mr. Rajat Bhardwaj, Mr. Dushyant Chaudhary and Mr. Tushar Garg, Advocates for R-12
Ms. Baani Khanna, Mr. Robin Singh, Mr. Kapil Balwani and Ms. Komal Thakkar, Advocates for R-16
Mr. Dama Seshadri Naidu, Sr. Advocate with Mr. Ramesh Allanki, Ms. Aruna Gupta and Mr. Sahil Sood, Advocates for R-17.
R-18 in person (through VC).
Mr. Chanchal K. Singla, Senior Advocate with Mr. Rohit Kaliyar and Mr. Akshay Malhotra, Advocates for R-19
Mr. Prabhav Ralli, Mrs. Stuti Gupta, Mr. Dev Vrat Arya, Mr. Samraat Saxena and Ms. Deeya Mittal, Advocates for R-20
Ms. Tusharika Mattoo, Advocate for R-21
Mr. Harsh Bora and Mr. Sahil Ghai, Advocates for R-22
Mr. Vikas Pahwa, Senior Advocate with Mr. Mayank Jain, Mr. Madhur Jain, Mr. Arpit Goel and Mr. Deepak Jain, Advocates for R-23 (through VC).

CORAM:
HON'BLE DR. JUSTICE SWARANA KANTA SHARMA

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<u>CRL. M.A. 11377/2026 (by R-18), CRL. M.A. 11303/2026 (by R-19), CRL. M.A. 11300/2026 (by R-12), CRL. M.A. 11302/2026 (by R-3) and CRL. M.A. 11301/2026 (by R-8)</u>

<u>DR. SWARANA KANTA SHARMA, J.</u>

WHEN I WAS ASKED TO RECUSE…

1. While I began to pen this judgment in the quiet aftermath of end of arguments, the Courtroom had fallen silent, the voices of arguments had faded, the echoes of accusations no longer filled the courtroom or my ears, what remained was the quiet weight of responsibility of being a Judge, who has taken oath on the Constitution of India i.e. Bharat, to uphold the purity and dignity of the judicial system, with one persistent question - 'Should I recuse?'

2. It was also that moment, when I realized that my silence as a judge itself is being put to test – and now the question is no longer about the case, but about the judge and fairness of the process and institution itself.

3. While in my entire life, as in the lives of many of my brother and sister judges across this country, the cases put up before us for adjudication test our knowledge, intellect and experience, at times before few of us, a litigant through a case, tests the institution's resilience itself. This case belongs to the latter category.

4. The challenge before me was not that I had to adjudicate difficult questions of law or fact, but I was drawn to adjudicate a recusal application against myself. However, it is not for the first time that such an application has been filed before the same judge seeking recusal by a litigant. Therefore, in that sense, it is not an extraordinary situation for a judge. In the past, before this High Court itself, there have been multiple occasions when applications for

recusal have been filed before the same judge, which have been heard and decided by them.

5. The issue before me was clear – as to whether I should recuse from hearing the present case. I was thus faced with a situation where my impartiality and dignity had been challenged, and the natural instinct would have been to recuse without hearing the application seeking recusal, which would have been the easier path of withdrawing and stepping aside. However, for the sake of the institution, I decided to adjudicate the recusal application, for it throws questions not only at me, but also at the institution itself. It also weighed in my mind that all my brother and sister Judges and the judges of District Courts of Delhi, who are part of this institution, may be affected by the outcome of this application since it may be cited as a precedent and many other litigants may take a similar path.

6. Equally was it clear to me that I had to decide it totally undisturbed and unaffected by the accusations and insinuations, in a fair manner, as objectively as it is required of a judge, and to test the recusal applications purely on the basis of jurisprudence of recusal laid down till date in our country, for that is what I have been trained to do as a Judge and what I have lived in the last 34 years of my judicial career.

7. During arguments, the applicants repeatedly submitted before the Court that they do not doubt my integrity on any account and

they are seeking recusal not because they doubt my integrity, but because of apprehension in their own minds that I may be biased.

8. What is also important is the fact that today I am dealing with the apprehension in the mind of the litigant and not actual bias in myself, which needed a thorough examination.

9. What made the task more challenging was that, during arguments, contrary stands were taken. All the applicants, at the beginning of arguments on recusal and some in the pleadings as well, submitted before this Court that they have complete respect for this Court as an individual judge and they do not doubt integrity of any kind or fairness of this Court. However, the applicants still want the case to be transferred, not because I am biased, but because they have apprehension in their mind that I may be biased.

10. I am fully conscious of the fact that today, I am not to judge the litigant, but the litigant has put me and this institution on trial, and it will be dealt with as it should be, not only on my behalf but on behalf of the institution of judiciary itself. To reiterate, though choosing the path of recusal – without even hearing the application for recusal – would have been quiet, comfortable, uncontroversial and easy, but a reputation once surrendered to accusation of bias, if not dealt with, will not be easy to re-claim.

11. Therefore, I choose the path to resolve the controversy thrown at me where my integrity has been put to test. The strength of judicial institution lies in strong resolve to respond appropriately to such

accusations, fearlessly and unhesitatingly. It is with this resolve that I begin writing my judgment and deal with every accusation hurled at me in an objective manner, without being affected by any of it.

SUBMISSIONS BEFORE THE COURT

1. In the present case, six of the respondents, i.e. discharged accused persons, have sought the recusal of this Court from hearing the present matter. These applicants are as under:

(i) Respondent No. 3 Vijay Nair

(ii) Respondent No. 5 Arun Ramachandran Pillai

(iii) Respondent No. 8 Manish Sisodia

(iv) Respondent No. 12 Rajesh Joshi

(v) Respondent No. 18 Arvind Kejriwal

(vi) Respondent No. 19 Durgesh Pathak

Submissions By Respondent No. 18 Arvind Kejriwal

2. The applicant Sh. Arvind Kejriwal, who appears in person, states that he, in his mind, has an apprehension of bias, which becomes the focal point in a case where a party seeks recusal of a Judge. To buttress his submission, he relies upon the decision of the Hon'ble Supreme Court in ***Ranjit Thakur v. Union of India:*** *(1987) 4 SCC 611.*

3. He draws the attention of this Court to the order dated 09.03.2026 passed in the present case and states that on the very first date the matter was listed, after hearing the Central Bureau of

Investigation [hereafter '**CBI**'] only for 'five minutes', this Court observed that *prima facie* there appeared to be certain erroneous observations in the discharge order passed by the learned Trial Court, which had heard the accused persons for nearly three months and had examined more than 40,000 pages of evidence. He states that since the order dated 09.03.2026 was passed in the absence of any of the accused persons or their counsels, it has given rise to an apprehension in his mind that he will not get justice from this Court.

4. In this regard, he also draws the attention of this Court to the judgment in ***Satyendra Kumar Jain v. Directorate of Enforcement:*** *CRL.M.C. 4916/2022*, and submits that the facts of that case and the present case are similar; rather, according to him, his apprehension is on a stronger footing than the apprehension expressed by the Directorate of Enforcement [hereafter '**DoE**'] in that case.

5. The Applicant Sh. Arvind Kejriwal also relies upon the decision in ***Kanaklata v. State (NCT of Delhi):*** *(2015) 6 SCC 617*, to argue that if the same Court has earlier recorded 'strong observations' in a case, it may create a reasonable apprehension in the mind of a litigant. He submits that this Court had given strong and rather conclusive findings while dealing with his earlier petition, wherein his arrest was challenged. In this regard, he draws the attention of this Court to the decision ***Arvind Kejriwal v. Enforcement Directorate:*** *2024 SCC OnLine Del 2685*. He states that since this Court had recorded conclusive findings and strong observations, such as those relating to non-recovery of the alleged

money, value of statements of approvers, etc., almost 'declaring him guilty' at a stage when only his arrest was under challenge, he has a reasonable apprehension in his mind that he will not get justice from this Court.

6. Further, the Applicant Sh. Arvind Kejriwal submits that the strong findings recorded by this Court in the past are totally contrary to the findings recorded by the learned Trial Court in the impugned order, which were arrived at after hearing the case for three months and examining 40,000 pages of record. According to him, since the findings recorded by the learned Trial Court are completely contrary to the earlier findings recorded by this Court, it gives rise to an apprehension in his mind that he will not get justice from this Court, as this Court has already pre-determined the issue and may not be able to appreciate the findings and reasoning recorded in the impugned order.

7. He also draws the attention of this Court to the order passed by this Court on the bail application filed by Respondent No. 8, i.e., the decision in ***Manish Sisodia v. Enforcement Directorate:*** *2024 SCC OnLine Del 3731*, and submits that strong observations were made in the said bail order and that this Court had almost held him guilty for the offence in question. He further draws attention to the fact that the said order was overturned by the Hon'ble Supreme Court. He submits that since this Court has already made up its mind in respect of the case in question, he apprehends that he will not get justice from this Court.

8. He also draws the attention of this Court, particularly to paragraph no. 8 of the order dated 09.03.2026 passed in the present case, and submits that this Court had observed as follows: "The observations made by the learned Trial Court regarding the statements of the witnesses and the approvers, at the stage of charge itself, *prima facie* appear erroneous and require consideration when viewed in the background of well-settled law on charge and conspiracy, as to whether such observations could have been made at the stage of charge itself." According to him, by recording these observations, this Court has, at the very threshold, and without hearing the accused persons and without going through the record, given a finding that the order of the learned Trial Court is erroneous. He further submits that the case of the prosecution is primarily based on the statements of the approvers, and that this Court has already recorded an observation in paragraph 8 of the order dated 09.03.2026 in this regard; therefore, he apprehends that he will not get justice from this Court. He also submits that even the Trial Court Record had not been summoned by this Court at that stage, and without having the same before it, the Court had *prima facie* recorded conclusions regarding the evidentiary value of the approvers' statements.

9. He next draws the attention of this Court to certain data which he has filed along with the recusal application, and submits that in some other revision petitions filed in the year 2026, this Court had granted three to six months' time for filing replies, whereas in the

present case, little time was granted for filing replies, which, according to him, stands in stark contrast to the manner in which other cases are being dealt with. He submits that undue haste was shown on that day while passing the said order, which, according to him, also gives rise to a reasonable apprehension in his mind that he will not get justice from this Court.

10. He also states that this Court was very generous to the DoE since, without any prayer being made by it when it had filed the present petition, this Court had passed an order in the present case filed by the CBI. He further states that on the day when the case was first listed before this Court, without hearing the respondents and without following the principles of natural justice, this Court, only on the asking of the CBI, had passed the order dated 09.03.2026 directing that the trial in the connected DoE case be adjourned awaiting the outcome of the present petition.

11. He also states that the proceedings with respect to the Investigating Officer of the CBI were also stayed by this Court till the next date of hearing, including the direction recommending departmental action against him, when the Investigating Officer was not even a party to the proceedings and the order was passed only at the mere asking of the CBI. According to Mr. Kejriwal, grave suspicion has arisen in his mind since this Court had stayed the observations and the disciplinary proceedings directed to be initiated against the Investigating Officer only at the mere asking of the CBI, when the Investigating Officer was not even a party to the case.

12. He further states that the respondents herein were not even served; however, this Court had mentioned in the order dated 09.03.2026 that there was advance service to the respondents. According to him, this also raises grave suspicion in his mind that he may not get justice from this Court. He further states that this Court had also mentioned in the order that the respondents had "chosen not to appear". He states that he was hurt by these observations since he has been regularly appearing for the last four years before this Court as well as before the learned Trial Court, either personally or through his chosen counsel.

13. The applicant also states that this Court had passed the order dated 06.04.2026, wherein it is mentioned in paragraph no. 12 that – "Though this Court had granted opportunity to the respondents on two occasions to file their replies to the main petition, some of the respondents have still failed to do so, and seek further time of one week to file the same. In the interest of justice, a last and final opportunity is granted to those respondents who have not yet filed their replies to do so positively by 10.04.2026. In case any respondent fails to file the reply by the said date, the opportunity to file the same shall stand closed." He submits that he apprehends bias against him even on this ground.

14. The applicant Sh. Arvind Kejriwal also states that he has noticed a trend in the orders passed by this Court that while deciding matters against him, this Court has almost "endorsed" the arguments advanced on behalf of the CBI or the ED and has granted all the

prayers sought by them. He submits that his pleas, or those of the other accused persons in this case, were always rejected, except in the case of one of the respondents, i.e., Arun Ramachandran Pillai.

15. He also states that the impugned order was passed by the learned Trial Court on 27.02.2026 and within four hours of the passing of that order, the CBI chose to file a revision petition, without specifically countering the observations made by the learned Trial Court *qua* each and every charge against each accused, and that a general petition was filed. However, this Court was pleased to pass a sweeping order on the basis of such a general petition filed before it, which, according to him, gives rise to a reasonable apprehension in his mind that he will not get justice from this Court.

16. He further states that on the last date of hearing, this Court was inclined to close the right of several accused persons to file their replies, while they were 'shouting in the Court' that they should be granted time. According to him, it was only upon the request made by the learned Solicitor General that time was granted to the accused persons to file their replies, and not out of the Court's own generosity.

17. He further submits that since this Court had attended certain programmes organised by Akhil Bharatiya Adhivakta Parishad, which, according to him, follows a particular ideology that is opposite to the ideology of his political party, and which openly opposes that ideology, it has given rise to an apprehension in his

mind that this Court may be more inclined or sympathetic towards them, and therefore he doubts that he will not get justice from this Court. When asked by this Court whether it had ever made any political statement or any statement regarding the ideology followed by the said Adhivakta Parishad, he stated that the mere fact that this Court had attended a programme organised by the said Adhivakta Parishad gives rise to a strong apprehension in his mind that he will not get justice from this Court.

18. He also states at the Bar, though it is not mentioned in the pleadings, that the Union Minister of Home Affairs of this country had made a statement in a television programme that when the judgment of this Court comes, Sh. Kejriwal will have to approach the Hon'ble Supreme Court. According to him, this statement has given rise to a suspicion in his mind that this Court will not give justice to him.

19. He further states at the Bar that he is also strongly affected and apprehends bias on the part of this Court in view of certain social media posts which, according to him, show that there is a conflict of interest of this Court in the present case, and that there is an old tradition of not presiding over cases where the Judge and one of the parties are related to each other in any manner. He submits that all these reasons, individually as well as collectively, have given rise to a very strong suspicion in his mind that he will not get justice from this Court, and therefore this Court may recuse itself from the present proceedings.

Submissions on behalf of Respondent No. 8 Manish Sisodia

20. The learned senior counsel appearing for Respondent No. 8 Manish Sisodia, submits at the outset that he holds the highest regard for the institution of the judiciary and for this Court. He, however, contends that the applicant harbours a reasonable apprehension that the matter may not be heard with complete impartiality by this Court, and that such apprehension is based on objective circumstances.

21. The learned senior counsel submits that bias is a concept with many shades and colours, and in the present case, he is using the expression in a limited sense – i.e., subject-matter bias. According to him, the apprehension is not of any personal prejudice, but of a pre-conceived judicial view arising from this Court having already dealt extensively with the same subject matter and having formed strong prima facie opinions on several aspects of the case.

22. It is argued that this Court already possesses deep domain knowledge of the present matter, having dealt with multiple petitions arising out of the same case. According to the learned senior counsel, when a judicial mind has expressed itself in considerable detail on the issues involved, and has recorded strong *prima facie* findings, there arises a genuine concern in the mind of the litigant that the Court may find it difficult to take a completely contrary view while examining the impugned discharge order. It is further submitted that this apprehension becomes stronger because the learned Trial Court, in its detailed discharge order, has taken a view contrary to several

material observations earlier recorded by this Court. Therefore, according to him, the applicant reasonably apprehends that this Court may not be inclined to affirm an order which substantially contradicts its earlier prima facie findings.

23. The learned senior counsel has also drawn the attention of this Court to several paragraphs of the order passed by this Court in the bail application of the applicant Sh. Manish Sisodia. It is submitted that the observations made therein are extensive in nature and give an impression that findings on merits have already been recorded. According to learned senior counsel, these observations convey as if the applicant has already been found guilty. It is, however, clarified by him that the submission is not that this Court is actually biased, but that the apprehension in the mind of a reasonable litigant, who is facing serious consequences affecting his liberty, is that the matter may not be considered with a completely open mind.

24. The learned senior counsel also submits that, *vide* order dated 09.03.2026, this Court had adjourned the proceedings in the connected ED matter to a date later than that fixed before the learned Trial Court. It is further urged that the conduct of the Investigating Officer, as recorded by the learned Trial Court, was stayed by this Court without reference to the material placed before the Trial Court by the CBI or to the chargesheet itself.

25. It is also urged by the learned senior counsel that in matters of this nature, public perception assumes significance, as the

consequences extend beyond the individual and may have wider ramifications. In conclusion, learned senior counsel has drawn an analogy with the episode of 'Agni Pariksha' in the Ramayana, wherein Mata *Sita* was required to establish her purity not because Lord Rama doubted her, but to satisfy the expectations of the people. It is sought to be conveyed that the present case places this Court in a similar position – not because there is any actual bias, but because the apprehension in the mind of the litigant is such that the Court may be required to demonstrate that justice will not only be done, but will also be seen to be done. The learned senior counsel also states that the public perception in such kind of cases should also be taken into consideration, which has larger ramification.

Submissions on behalf of Respondent No. 3 Vijay Nair

26. The learned senior counsel appearing for Respondent No. 3 submits that the present case is one where the entire case of the prosecution has been discarded at the stage of charge, and it is not a case where only a few accused have been discharged. He submits that both advocates and judges are legally trained minds, accustomed to analysing facts and law through a judicial lens. However, according to him, while considering an application for recusal, the Court must step outside the box of normal judicial thinking and also examine the issue from the perspective of an ordinary litigant. What may appear to the Court as only another matter on the board may, for the litigant, be his entire life, liberty, and reputation.

27. He submits that when this Court has already taken a particular prima facie view in earlier proceedings arising out of the same case, and the learned Trial Court has now taken an entirely opposite view while discharging the accused persons, a genuine apprehension arises in the mind of the litigant as to whether this Court would, in any circumstance, be able to agree with the view taken by the learned Trial Court.

28. The learned senior counsel also draws the attention of this Court to the fact that this Court has already dealt with five applications/petitions arising out of the same matter, in which, according to him, strong observations have been recorded. It is contended that these observations indicate that this Court has already formed a particular view on the issues involved. In support of the aforesaid submissions, reliance has been placed upon ***Kanaklata v. State (NCT of Delhi)*** *(supra).* On that basis, it is submitted that the applicant apprehends that the present matter would also be decided on the same lines as the earlier orders.

29. The learned senior counsel further submits that on 09.03.2026, when the interim order was passed by this Court, only the impugned discharge order and the revision petition filed by the petitioner were before this Court. Neither the learned Trial Court record was available, nor were the respondents present before the Court. It is argued that in such circumstances, the passing of interim directions and recording of *prima facie* observations gives rise to a serious apprehension in the mind of the respondents.

30. As regards advance service, it is submitted that the petitioner seeks to justify service by stating that copies were sent to the counsel who had appeared for the accused persons before the learned Trial Court. It is argued that advance notice is required to be served upon the parties concerned, and not merely presumed through earlier counsel. Once the discharge order had been passed, the proceedings before the learned Trial Court had come to an end, and with that, the lawyer-client relationship for that stage also stood concluded. Therefore, according to the learned senior counsel, such service upon Trial Court counsel cannot be treated as proper advance notice for the purposes of the present revision petition.

31. It is also submitted that recusal in criminal matters stands on a stronger footing than in civil proceedings, since criminal cases concern life, liberty, and personal reputation. Therefore, according to him, even a reasonable apprehension in the mind of an accused deserves greater sensitivity and caution while considering whether the Judge should continue to hear the matter. Reliance has also been placed on the judgment in ***Satyendra Kumar Jain v. Directorate of Enforcement*** *(supra)*.

32. The learned senior counsel further submits that once there is a reasonable apprehension in the mind of the applicant that the matter may not be considered with a completely open mind, and that the conclusions drawn in the earlier proceedings may influence the outcome of the present case, it would be appropriate that, in order to dispel such apprehension, the matter be placed before another Bench.

Submissions on behalf of Respondent No. 19 Durgesh Pathak

33. The learned senior counsel appearing on behalf of the applicant submits that the present applicant has no role in the alleged conspiracy, and that his name has surfaced only in the fourth supplementary charge-sheet. He submits that justice should not only be done, but must also be seen to be done.

34. It is further submitted that, while considering recusal, the Court must keep in mind the reasonable apprehension in the mind of a well-informed litigant, as well as that of the general public. The learned senior counsel submits that in criminal cases, such apprehensions assume greater significance, as the outcome directly affects the personal liberty of the accused.

35. The learned senior counsel draws the attention of this Court to the order dated 09.03.2026 and submits that the said order has contributed to the apprehension in the mind of the applicant. It is contended that the order was passed without hearing the accused, and that notice was served only upon the counsel who had earlier represented the applicant, despite the fact that the applicant had already been discharged and the authority of such counsel had come to an end.

36. The learned senior counsel also submits that the conduct of the CBI in filing a reply in the present matter reflects an over-enthusiastic approach, which, according to him, contributes to the apprehension in the mind of the applicant that he may not receive

justice from this Court. It is further submitted at the Bar that certain social media reports and articles have also impacted the applicant, including his health, and have strengthened his apprehension that justice may not be done in the present case.

Submissions on behalf of Respondent No. 12 Rajesh Joshi

37. The learned counsel appearing for Respondent No. 12 Rajesh Joshi, submits that he is adopting all the common arguments of other recusal applicants. He further states that the order dated 09.03.2026 was passed in circumstances where neither the Investigating Officer nor the DoE were even parties before this Court. Despite this, according to learned counsel, relief came to be granted on the asking of the CBI. It is contended that no specific prayer had been made in the pleadings for such relief, and yet directions affecting non-parties were issued.

38. The learned counsel submits that this gives rise to a concern that relief was granted without a proper foundation in the pleadings and without hearing the affected parties. It is further submitted that such a course, where relief is extended beyond the parties before the Court and in the absence of a specific prayer, contributes to the apprehension in the mind of the applicant that the proceedings may not be conducted with complete fairness.

39. On this basis, it is urged that the order dated 09.03.2026, and the manner in which relief was granted therein, is one of the

circumstances which gives rise to a reasonable apprehension in the mind of the applicant Rajesh Joshi.

Submissions on behalf of Respondent No. 5 Arun Ramchandran Pillai

40. The learned counsel further states that an amended application will be filed within two days. During the course of arguments, this Court's attention was drawn to the report of Registry informing this Court that Respondent No. 5 had not re-filed the recusal application. At that stage, the learned counsel for Respondent No. 5 appeared and stated at the Bar that an amended application will be filed within two days, but same grounds and submissions as advanced on behalf of Respondent No. 8 Sh. Manish Sisodia by Sh. Hegde are being adopted.

41. Without commenting on the failure to remove objections and re-file the application, which had been returned *vide* Diary No. 150763/2026, this Court takes note of the aforesaid submission, and accordingly, the oral request for recusal on behalf of Respondent No. 5 is being considered.

Submissions on Behalf of the Petitioner-CBI

42. Mr. Tushar Mehta, learned Solicitor General appearing for the CBI, at the outset submits that the CBI, per se, has no issue with any Bench of this Court hearing the present matter. However, he states that the conduct of some of the respondents borders on maligning the judicial institution and scandalising the same, and such attempts to

browbeat the Court must be nipped in the bud. According to him, this Court must deter such attempts made by unscrupulous litigants.

43. He submits that this Court was assigned the roster of MP/MLA category cases by the Hon'ble Chief Justice of this Court on 31.12.2025, whereas even the arguments on charge in the present case were concluded before the learned Trial Court only on 12.02.2026 and the judgment was pronounced on 27.02.2026. Thus, there was no possibility of foreseeing in December 2025 that this Bench would hear the present matter in March 2026, since at the time when the Roster was assigned, the arguments on charge had not even concluded before the learned Trial Court.

44. As regards the argument concerning advance service of the petition upon the respondents, the learned Solicitor General submits that service was effected upon all the counsels representing the accused persons before the learned Trial Court on the e-mail IDs furnished by them. None of them has disputed receipt of such service. He further points out that all those counsels are also appearing for the respondents before this Court in the present proceedings. He submits that service of the petition in advance upon counsels is valid service in law, both as per judicial precedents and the Rules of the Delhi High Court.

45. As regards the observations recorded in the order dated 09.03.2026, he submits that Respondent No. 18 as well as some other respondents have already challenged the said order before the

Hon'ble Supreme Court, but the Special Leave Petitions filed by them, including Applicant Sh. Arvind Kejriwal, have been kept pending under office objections. He further submits that it is common judicial practice that whenever a Court grants any interim relief, even on the first date of hearing, it records certain prima facie observations indicating the reasons for granting such relief. Such observations are only prima facie in nature and not conclusive. He also submits that in the present case, only prima facie observations on legal issues were recorded and not on factual issues requiring appreciation of evidence.

46. As regards the stay of remarks and the consequential action against the Investigating Officer, the learned Solicitor General submits that this Court had only stayed the scathing remarks made against the I.O., whereby the impugned order had concluded that the I.O. had falsely implicated accused No. 1, Kuldeep Singh, and had directed initiation of departmental proceedings against him. He submits that there is nothing unusual or contrary to law in staying such consequential directions when the impugned order itself is under challenge before a superior court. According to him, the applicants are virtually seeking a rule that once a Bench grants an ex-parte stay, it must not proceed to hear the matter further and should necessarily recuse, which is wholly untenable.

47. He further submits that the present case falls under the MP/MLA category, and the Hon'ble Supreme Court has repeatedly emphasized that such cases must be taken up on priority and decided

expeditiously. Therefore, the allegation of undue haste is wholly misplaced.

48. As regards the alleged ideological association with Akhil Bharatiya Adhivakta Parishad, the learned Solicitor General submits that making such sweeping allegations merely because a Judge attended legal seminars, which were not related to any political issue, amounts to an attempt to scandalise the Court and interfere with the administration of justice. According to him, such conduct borders on contempt of court. He submits that attending a legal seminar can never be a ground for recusal, especially when the subject was purely legal and had no political context. Mere attendance does not demonstrate ideological association. If such a contention is accepted, a large number of sitting Judges of various High Courts and even the Hon'ble Supreme Court would have to recuse themselves from cases involving politically exposed persons, which would lead to an absurd situation.

49. He further argues that bias cannot be attached to views expressed by Judges during judicial proceedings or in judgments rendered by them. If that becomes the test for recusal, it would amount to permitting forum shopping, where parties seek exclusion of Judges whose earlier views appear unfavourable to them. Such a proposition would extend not only to this Court, but to every Judge who may have passed an adverse order on a similar issue, which would be contrary to the rule of law and judicial discipline.

50. He also submits that if deciding an issue were itself to create bias, even the very basis of review jurisdiction would be undermined, since review petitions are ordinarily placed before the same Judge or Bench which delivered the original judgment.

51. Lastly, he submits that several Judges of this Court have rendered adverse findings based on material collected by investigating agencies in the Delhi Excise Policy cases, and such judicial findings can never become a source of bias. If the applicants' contention is accepted, every such Judge would be required to recuse from hearing the present matter, making the administration of justice impossible.

ANALYSIS & FINDINGS

52. The question which is posed is whether what is being urged, is a genuine, reasonable and legally sustainable apprehension of bias in the mind of a litigant, or merely an unfounded perception. It is in this background that the submissions raised by the recusal applicants are being considered.

A. ALLEGED APPREHENSION OF BIAS IN VIEW OF THE ORDER DATED 09.03.2026

53. One of the major grounds on which recusal has been sought is the order dated 09.03.2026 passed by this Court. In fact, applicant Sh. Arvind Kejriwal, while addressing the Court in person, repeatedly referred to the said order and stated that upon seeing the

order dated 09.03.2026, it gave rise to an apprehension in his mind that he would not get justice from this Court.

54. At the outset, this Court is of the view that an order passed in a petition, on the very first date of hearing, cannot by itself become a ground for seeking recusal of the Court on the premise that such order, merely because it records certain *prima facie* observations, creates an apprehension of bias in the mind of the opposite party. In ***Neelam Manmohan Attavar v. Manmohan Attavar:*** *(2021) 3 SCC 727*, the Hon'ble Supreme Court observed that merely because an earlier order of the Court may not have been in favour of the applicant cannot be a ground for seeking recusal, and that a litigant cannot be permitted to browbeat the Court by seeking a Bench of his choice.

55. The remedy for a litigant, who is aggrieved by an order, lies in challenging the same before the higher court. It is also noteworthy that applicant Sh. Arvind Kejriwal herein has **already challenged** the order dated 09.03.2026 by way of a Special Leave Petition, bearing Diary No. 15911/2026, before the Hon'ble Supreme Court, which was filed on 14.03.2026. Some other respondents as well have also challenged the said order. **However**, these petitions have remained pending in defects for more than a month.

56. *Be that as it may*, the objections raised against the order dated 09.03.2026 are now being considered one by one by this Court.

(i) Advance Service of Respondents

57. Firstly, it has been contended that though this Court recorded in the order that the respondents had been served in advance, there was in fact no service on the respondents as such, but only service on the counsels who had represented them before the learned Trial Court. It is thus argued that this Court erred in observing that the respondents had chosen not to appear on the first date of hearing. This is a common ground raised by all the respondents who have preferred the applications seeking recusal of this Court.

58. As far as the question of non-appearance and alleged non-service of the respondents on the first date of hearing is concerned, in the present case, it is not in dispute that the petitioner-CBI had served advance copies of the petition upon the learned counsels representing the accused persons before the learned Trial Court, on the e-mail IDs which had been furnished by them before the Trial Court. None of the learned counsels has disputed that such service was affected upon them. It has also not been disputed that the said e-mail IDs had been provided by them only before the learned Trial Court for the purpose of communication. The *only objection* raised is that service ought to have been effected directly upon the respondents and not upon the counsels who had represented them before the learned Trial Court, since a respondent may choose to engage a different counsel before this Court.

59. This Court also takes note of the fact that the learned counsels, who were served advance notice of the present petition by the CBI are, *in fact*, appearing for the respondents before this Court as well, and thus, it is not the case that the respondents have engaged some different counsels before this Court, than those were engaged before the Trial Court.

60. In this regard, the attention of this Court was also drawn by the petitioner-CBI to the Rules of the Delhi High Court on the Civil Side, which permit service either on the party or on the counsel representing the party, though there is no specific rule on the criminal side to that effect.

61. The Court as well as the Registry is required to rely upon the proof of advance service annexed by a petitioner along with the petition. It is presumed that since advance service is mandatory before permitting e-filing of a petition, the Registry would have ensured that proof of such service is placed on record. If, on the very first day of hearing, the Court were to start presuming that the proof of service filed along with the petition may not be correct, the functioning of the Court itself would become extremely difficult. In such a situation, the Registry would be compelled to spend considerable time verifying the correctness of proof of service rather than facilitating e-filing and listing of matters.

62. Even otherwise, this Court is of the opinion that ***no prejudice*** has been caused to the recusal applicants or the other respondents on

account of the order dated 09.03.2026. This is for the reason that the impugned discharge order, which directly concerned the accused persons, was never stayed by this Court. In fact, the CBI itself had not made any prayer seeking stay of the discharge order.

63. On the said date, this Court had merely issued notice in the matter. It may be noted that the Court is required to hear the petitioner even for the purpose of deciding whether the petition deserves issuance of notice. Needless to say, not every petition necessarily results in issuance of notice. Several petitions are dismissed in limine at the very threshold as well.

(ii) Stay on remarks against the Investigating Officer

64. Another grievance raised by the recusal applicants relates to the stay granted by this Court on the observations made by the learned Trial Court against the Investigating Officer of the CBI as well as the direction recommending departmental action against him.

65. In this regard, it may be noted that what was stayed on the first date of hearing by this Court were only the remarks and the departmental action which had been directed against the Investigating Officer by the learned Trial Court. *Broadly speaking*, the accused persons had nothing to do with the same. The accused persons had argued the matter at the stage of charge before the learned Trial Court, which had resulted in the passing of impugned discharge order dated 27.02.2026. While passing that order, the learned Trial Court had made certain remarks and had directed

departmental action against the Investigating Officer, on its own assessment, and not at the asking of the accused persons. The concerned party aggrieved by such directions would therefore be the investigating officer or the investigating agency, i.e., the CBI, and not the accused persons.

66. It is also not uncommon for courts, while examining such directions, to grant interim protection in order to maintain *status quo* i.e. preserve the situation until the matter is finally adjudicated. When the impugned order of discharge was itself under challenge before this Court, if the departmental action was allowed to proceed and the officer concerned were to be suspended or subjected to disciplinary consequences, but subsequently the Court were to reach a conclusion that no such action was warranted in the case, the situation would become difficult to undo. It is to prevent such situations that interim protection is often granted by Courts. On the other hand, if upon final consideration of the matter, the Court arrives at the conclusion that the observations made by the learned Trial Court were justified and that departmental action is warranted, the process of law would naturally follow in accordance with the final decision of the Court.

67. What the litigant forgets is that he is not the *only* party before this Court; a Judge always has two parties before her. On one hand, he questions how the CBI can even file a response to his application seeking recusal, contending that it is only a matter between him and the Judge. On the other hand, he alleges bias on the ground that this

Court merely stayed certain observations made against the Investigating Officer, though that issue too was between this Court and the affected party, namely, the Investigating Officer of the case.

68. This Court has, however, acted fairly by giving the litigant an opportunity to file a reply even with respect to the stay granted by this Court qua the observations made against the CBI. This is despite the fact that this Court had not even stayed the extensive observations made against the CBI and ED in another case in which the present litigant had been discharged, regarding their functioning in general and the broader pattern noticed during his tenure as a learned Trial Court Judge. Fair justice has to be done to both parties by a Judge, and not only to one. That is precisely why, even in that case, an opportunity was granted to the agencies to file their reply.

69. The litigant cannot have one set of rules for himself, which this Court must follow, and another set of rules for the opposite party. The CBI is also a party before this Court. This Court cannot permit the justice delivery system to be made vulnerable to unfounded allegations against the Judge.

70. To reiterate, what would have mattered for the accused persons was stay of the impugned discharge order. The impugned discharge order however was never stayed by this Court. In fact, the accused persons continue to remain discharged and the discharge order remains fully intact.

(iii) *Prima facie* observations recorded in the order dated 09.03.2026

71. Another grievance raised by the recusal applicants, and particularly by applicant Sh. Arvind Kejriwal, relates to the *prima facie* observations recorded by this Court in the order dated 09.03.2026. applicant Sh. Arvind Kejriwal, while addressing the Court in person, questioned the necessity of such observations and stated in open Court, in his own words, "*ye zarurat kya thi likhne ki order mei*".

72. In this regard, it may be noted at the outset, that the present matter is yet to be heard finally. It is neither uncommon nor unusual for a Court, while issuing notice or granting limited interim reliefs, to record a *prima facie* view on the submissions made before it. Such observations are part of the judicial process while considering whether the matter requires further examination.

73. The expression – *prima facie* – even in its literal sense means what appears to be true at the first impression. A *prima facie* opinion or view is only a view which a court forms on the basis of the material placed before it at the first instance, when the matter is looked at, at a first blush. Such a view is always tentative and may eventually be proved to be incorrect once the matter is fully heard.

74. When petitions come up before courts, parties often seek interim or even ex-parte interim reliefs. If a court, while exercising its jurisdiction, for instance in civil jurisdiction, grants an ex-parte

ad-interim or interim relief, it naturally means that the other side may not yet be present before the court and the relief is granted on the very first date after making certain *prima facie* observations. However, such relief is only interim, meaning thereby that it operates only during the pendency of the proceedings. It is also ex-parte, meaning that it has been granted without hearing the other side. The opinion expressed by the court in such circumstances is necessarily *prima facie*, i.e., based only on the material presently available before the court. It can never mean that the final outcome of the case has already been decided. More often than not, such interim orders are subsequently modified or vacated upon an application being moved by the other side, or even at the time of final adjudication when the entire matter is heard in detail. In such cases, the *prima facie* observations remain only *prima facie* and do not culminate into the final outcome.

75. However, it has been projected before this Court as if the *prima facie* observations made by this Court at the time of first hearing of the case are to be treated as conclusive findings. In the opinion of this Court, such an interpretation can only be termed as an imagination of the part of applicant Sh. Arvind Kejriwal and the other recusal applicants.

76. If the argument of the applicants is that no *prima facie* observation could have been recorded on the first date of hearing without hearing the other side, then it would mean rewriting the entire settled law and jurisprudence. It appears that applicant Sh.

Arvind Kejriwal, who argued the matter in person, may not be fully aware of the manner in which interim reliefs are granted or how *prima facie* observations are recorded by courts while passing such orders. These observations are recorded so that the order remains a reasoned one and the parties are made aware as to what weighed with the Court at the first instance.

77. In fact, such observations are often more important for the other side, as they indicate to them what appeared to the Court at the first blush so that they are better prepared, on facts as well as law, to address those aspects during the course of final hearing, and in all probabilities, convince the Court to take a view different than the one expressed at the first date of hearing, which is only *prima facie* in nature, and in no manner, a conclusive opinion of the Court.

78. If the argument advanced by the applicants is accepted, no court would ever be able to grant any interim relief or pass any order of stay. In civil matters, no court would be able to exercise powers under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure. Similarly, in criminal matters, courts would not be able to grant interim bail, or grant interim protection from arrest, or pass any interim directions while awaiting a status report or service upon the complainant or victim. Every such order could then be challenged on the ground that it was passed in the absence of the other side.

79. Courts cannot function under such constraints. They must be allowed to perform their judicial functions independently and in

accordance with law and the requirements of each case. Accepting the argument put forth by the respondents seeking recusal would effectively permit an accused to question and castigate the Judge merely because the accused fears that the *prima facie* view expressed may ultimately result in an adverse final order, without appreciating the basic principle that a *prima facie* view is not a final view.

80. Be that as it may, if any party is aggrieved by the grant of any interim relief or by any interim order passed by a court, the law provides appropriate remedies to challenge such orders before the higher court. The remedy is not to seek recusal of the Judge. If such requests for recusal were to be entertained, every litigant against whom an interim order is passed by a Judge of a High Court would start seeking recusal of that Judge from hearing the matter. Courts would then be flooded with such frivolous applications.

81. ***Let us explain this to the recusal applicants by way of a judicial precedent which was decided by one of the judges of this Court in similar facts and circumstances.*** Some years ago, a case came before this High Court where one of the parties asked a brother Judge, who later adorned the Hon'ble Supreme Court, to step aside from hearing the matter. The reason was familiar: an earlier interim order had been passed by a Bench of which he was also a member, and the party felt that by making certain *prima facie* observations and disturbing the existing status quo, the Judge had already "prejudged" and "predetermined" the issues involved. Their concern was simple. They believed that once such observations had been recorded, it

would be difficult to expect justice from the same Judge hearing the matter again. According to them, the mind of the Court had already been made up. The opposite side, however, while opposing this request, said that if such an argument was accepted, every unsuccessful litigant would begin seeking recusal merely because an interim order had been passed against him. The learned Judge, while answering that question, held that merely because *prima facie* observations were made while passing an interim order, it could not be said that the matter had been prejudged. It was observed that requests for recusal must rest on reasonable apprehensions and not on speculative or fanciful suppositions. **The principle thus was clear**: if every interim order were treated as proof of bias, any litigant dissatisfied with such an order could seek a Bench of choice by asking the Judge to step aside, which the law does not permit. The conclusion of the story is one: recusal denied. For reference, the observations in this regard, in case of ***AIIMS v. Prof. Kaushal K. Verma:*** *2015 SCC OnLine Del 9226* (S. Ravindra Bhat, J.) are set out below:

> "1. This order will dispose off the contentions urged in W.P.(C) 4228/2014 and W.P.(C) 4245/2014. The issue is whether this Bench should not hear the said Writ Petitions. The writ petitioners, in identically worded affidavits dated 11.03.2015, urge that the present Bench should not hear this petition and connected cases since the earlier Bench comprising of one of us (i.e. S. Ravindra Bhat, J) and Vipin Sanghi, J (who is not part of the Bench) had, "already prejudged and predetermined the issues involved while passing the order dated 03.12.2014." This request - to recuse the Bench comprising of one of the members of the said Bench (S. Ravindra Bhat, J - hereafter "the Presiding Judge") was first voiced on 04.02.2015. The Court had then granted time to the petitioners to file affidavits, which they subsequently did.

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4. ……Consequently, the matters were marked to the present Bench which otherwise, (according to roster allocation) has to decide all manner of tax appeals and petitions against orders of BIFR, AIFR, DRAT and the writ petitions concerning validity of statutes and laws with respect to these subjects. Accordingly, when the petitions were called for hearing on 04.02.2015, learned senior counsel appearing for the Petitioners in W.P.(C) 4228/2014 and W.P.(C) 4245/2014 urged that this Bench should desist from hearing the matters. The Court recorded this contention as follows:

"It is stated by Sh. Dinesh Dwivedi, learned senior counsel for the petitioners in W.P.(C) 4228/2014 and W.P.(C) 4245/2014 that this Bench should not hear the matter since one of us (HMJ S. Ravindra Bhat) has prejudged the case on account of the interim orders made. Learned senior counsel states that an affidavit to this effect would be filed in Court. He requests for some time. List on 16.03.2015."

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6. Sh. Dwivedi, learned senior counsel urges firstly that the order of 03.12.2014 - to the extent it disturbed the existing status quo, amounted to a determination on the merits of the case…….

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9. Sh. C. Harishankar, learned senior counsel on behalf of the respondents, urged that this Court should reject the recusal request. He submitted that accepting the recusal request would mean that in every case, the party unsuccessful in securing interim relief can potentially claim to have an apprehension that the Presiding Judge or the Judge concerned is biased. Every such apprehension cannot be granted unless the conduct of the proceeding or the tenor of the concerned order from which the request stems betrays a predilection by the judge to decide in a particular manner.

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24. ……As observed earlier, every litigant who seeks interlocutory relief of any kind, is reasonably aware of the possibilities of both outcomes; where the court in question is not a final court, but one of first instance or an intervening appellate court-it has to record its reasons-howsoever tentative and *prima facie*......Given such circumstances, this singular feature cannot in the opinion of the court, be said to constitute a reasonable likelihood for the apprehension that the Presiding Judge had pre-judged the merits on 03-12-2014 or had expressed such strong views as to make it difficult to secure justice.

25. Before ending this unusually prolix order, which can run into the danger of self-vindication, the Court observes that requests for recusal are to be based on reasonable apprehensions; they cannot be speculative or fanciful suppositions…"

82. **Therefore**, to put it in simpler words, an interim order cannot become a tool for seeking recusal, nor can a litigant be permitted to choose a Bench merely because a *prima facie* view expressed by the Court does not suit him. If the respondents herein are aggrieved by the order dated 09.03.2026, they have every right in law to challenge the said order before the Hon'ble Supreme Court. In fact, as noted above, they have already chosen to file Special Leave Petitions in that regard. However, a Judge cannot be asked to recuse merely because an interim order has been passed against a party. If such a course were permitted, it would mean that any litigant could force a Judge to withdraw from a case simply by questioning an interim order, which is neither the spirit nor the mandate of law. It may further be reiterated that no interim relief, in fact, was granted against the respondents per se, since the impugned discharge order itself was never stayed by this Court.

(iv) Examples of *Prima facie* observations & Interim Relief Granted in Favour of Respondent No. 18 Sh. Arvind Kejriwal & Members of his Political Party by the Court

83. The argument of the recusal applicants that merely because this Court had granted limited interim relief on the first date of hearing and had recorded certain *prima facie* observations, an apprehension of bias must necessarily arise, is based more on misbelives than on settled principles of law. Such an attempt appears to be only to portray a routine judicial exercise as something extraordinary so as to build a ground for seeking recusal.

84. It will be appropriate to set out some instances, where either the applicant Sh. Arvind Kejriwal herein or other leaders belonging to his political party were granted interim reliefs/stay by this Court – on the first date itself, without hearing the other side or calling for their reply, and such interim orders continue to operate till now.

85. In the case of ***Arvind Kejriwal & Anr. v. State & Anr.:*** *CRL.M.C. 6508/2019*, the petitioners therein – who are applicants/ respondents Sh. Arvind Kejriwal and Sh. Manish Sisodia before this Court in the present proceedings – had challenged a summoning order passed against them in a complaint case for defamation filed by a leader of another political party. **In that matter, a Coordinate Bench had stayed the operation of the impugned summoning order on the very first date of hearing itself, when neither the complainant nor his counsel was present before the Court, and thus without hearing the other side. The said interim order continues to operate till date, for about six years**. ***However***, the petitioners therein have no grievance with that interim stay order, even though relief was granted to them on the very first date without hearing the complainant – ***perhaps*** **because the order was passed in their favour**. The said matter was last listed before this Court, this Judge on 30.01.2026, when it was adjourned to 14.07.2026 at request and it was this Court, this Judge only which had extended the interim order of stay.

86. Similarly, ***Raghav Chadha v. Chhail Bihari Goswami & Ors.:*** *CRL.M.C. 8484/2023* and ***Satyendra Kumar Jain v. State &***

Anr.: CRL.M.C. 8514/2023, were two petitions filed by members/leaders of the same political party of which applicant Sh. Arvind Kejriwal is the National Convenor. In those matters, summons had been issued to the petitioners in complaint cases of defamation filed by the members of another political party. **In the said petitions, this Court, this Judge, in the interest of justice, had directed the learned Trial Court to adjourn the matter to a date beyond the date fixed before this Court, and the interim relief granted in favour of the petitioners was allowed to continue. This was done even though no arguments were heard on the merits of the case due to paucity of time, which was specifically recorded in the order itself.** No allegation of any bias or any ideological inclination was then raised against this Court by any of the parties. The petitioners in those cases, who belonged to the political party of applicant Sh. Arvind Kejriwal, also never argued that no interim order should be passed in their favour without first hearing the other side. **Notably, the interim order has been operating in favour of the petitioners therein for more than two years**.

87. There are several other such matters pending adjudication on the board of this Court, within MP/ MLA category, including cases filed by leaders belonging to the political party of applicant Sh. Arvind Kejriwal, **where interim orders were granted in their favour on the very first date of hearing after recording their submissions in detail and expressing a *prima facie* view, even in**

the absence of the opposite parties. Many such interim orders continue to operate till date. However, this Court does not deem it necessary to burden the present judgment by extracting details of all such cases.

88. Be that as it may, these two examples have been discussed above, only to show that passing interim orders or recording *prima facie* observations at the initial stage, even in the absence of the opposite side, is neither unusual nor indicative of bias. It is a settled law that when urgency exists and the Court finds that the matter requires consideration, interim relief may be granted after recording the submissions made and forming a *prima facie* view, subject always to further hearing in the case and its final adjudication. **A judicial practice which is accepted without objection when it operates in one's favour, cannot suddenly become a ground of bias when the same course is adopted in another case by a court of law**.

89. Therefore, the grievance now raised by the recusal applicants, that an interim order was passed or *prima facie* observations were recorded by this Court on the first date of hearing in the present case, without hearing the respondents, cannot be accepted as a ground for recusal.

(v) Argument that CBI was heard only for 'Five Minutes' on the first date of hearing

90. Applicant Sh. Arvind Kejriwal also argued that this Court had heard the petitioner-CBI only for "five minutes" on the first date of hearing i.e. 09.03.2026 and was generous enough to grant interim relief, despite the impugned discharge order running into more than 600 pages and being based on a voluminous record of nearly 40,000 pages.

91. This argument is equally without merit. This Court is of the opinion that a litigant cannot be permitted to question the ability of a judge to read a file, or the time given to a party for arguments or the necessity for passing a particular order. The manner in which a Court reads the record, appreciates the material, and forms a p*rima facie* view lies entirely within the judicial domain of the Court and can only be questioned by a higher court.

92. Further, when applicant Sh. Arvind Kejriwal himself has repeatedly argued that he was not properly served and was not present before the Court on the first date of hearing, it is difficult to understand how he could precisely tell whether the petitioner-CBI was heard for five minutes or fifty minutes on the first day of hearing. In the considered opinion of this Court, such assertions appear to be based more on assumptions than on fact, and cannot be a ground for alleging bias, especially when he has filed SLP challenging the order dated 09.03.2026 before the Hon'ble Supreme

Court, however has not removed the objections and is pending in defects for about one month.

(vi) Conduct of applicants who had filed SLP and Writ Petition before the Hon'ble Supreme Court

93. One important aspect which also deserves to be noticed is that on 16.03.2026, when the respondents appeared before this Court for the first time after issuance of notice, learned counsels had appeared for applicant Sh. Arvind Kejriwal and informed this Court that two petitions had been filed before the Hon'ble Supreme Court by applicant Sh. Arvind Kejriwal, one challenging the order of the Hon'ble Chief Justice of this Court declining their request to transfer the present case to another Bench, and the other challenging the order dated 09.03.2026.

94. ***However***, despite the said petitions having been filed on 14.03.2026, they were kept under objections, in the defect list of the Hon'ble Supreme Court. Undisputedly, the removal of such objections is the responsibility of the litigant and his counsel. Interestingly, though the applicant Sh. Arvind Kejriwal later appeared in person to address arguments on the present recusal application, on an earlier date i.e. 16.03.2026, learned counsels had appeared on his behalf. Even the petitions before the Hon'ble Supreme Court had been filed through a counsel, yet the objections were not removed.

95. Thereafter, on 06.04.2026, when applicant Sh. Arvind Kejriwal appeared in person before this Court and submitted that he had filed a recusal application before this Court, **he did not inform this Court that the writ petition seeking transfer of this case from this Bench had already been withdrawn from the Hon'ble Supreme Court**. It was only when this Court made a query in this regard, and the same was also pointed out by the CBI, that the applicant Sh. Arvind Kejriwal, and learned senior counsel who was appearing for Respondent No. 3, **informed this Court that the applicant Sh. Arvind Kejriwal had withdrawn the said writ petition seeking transfer of the case from this Bench to another Bench.**

96. Needless to say, equity demands that when parties appear before a court, nothing material should be withheld from the Court. Those who insist that the Judge must demonstrate fairness and transparency must themselves come before the Court with complete transparency. Legal strategy cannot be stretched to the extent of attempting to mislead the Court. To ignore such conduct and not record it in the present judgment would itself be a disservice to the institution.

B. ALLEGED UNDUE HASTE IN THE PRESENT CASE & LONGER DATES GIVEN IN OTHER CASES BY THIS COURT

97. It has also been insinuated that this Court has acted with bias on the ground that in several other revision petitions listed before this

Court in the year 2026, longer dates were granted for filing replies, whereas in the present case shorter dates were granted. According to the applicants, this shows that there was undue haste on the part of this Court while dealing with the present matter.

98. Interestingly, in the present case, the litigant apprehends bias – merely because the Court is ensuring an expeditious hearing. It is a rather strange situation where, outside the Court, there is constant criticism that cases are not decided quickly, but when it comes to one's own case, the same litigant resists expeditious proceedings and questions the Court for granting short adjournments.

99. Nevertheless, as far as the above argument is concerned, this Court finds that the same proceeds on a ***clear misunderstanding*** of the legal framework governing such cases, as well as on an ***incomplete and selective presentation of facts*** by the recusal applicants.

100. The Hon'ble Supreme Court in ***Ashwini Kumar Upadhyay v. Union of India and Anr.:*** *W.P.(C) No.699/2016*, *vide* order dated 09.11.2023 had passed certain directions for expeditious disposal of cases pertaining to MPs and MLAs. It had also observed as under:

> " 14. These cases have a direct bearing on our political democracy. Hence, there is a compelling need to make every effort to ensure that these cases are taken up on priority and decided expeditiously. Confidence and trust of the constituency in their political representative, be it an MP or an MLA, is necessary for an interactive, efficient and effective functioning of a parliamentary democracy. However, such confidence is difficult to expect when figures, as indicated in the above referred table, loom large in our polity.

> 15. In fact, **there are no two views about the compelling need to take up and dispose of the subject cases expeditiously. We have no doubt in our mind that even the political representative, be it MP or an MLA, involved in the prosecution would also seek a quick disposal of these cases.** However, the problem lies elsewhere. It seems systemic, perhaps institutional, and takes within its sweep many factors including the method of adversarial litigation that we have adopted. Yet, at every stage of the practice and procedure that we adopt, there is scope for reform. It is in this context that we have earnestly conducted and monitored this case for the last seven years."
>
> (emphasis added)

101. In compliance with the decision of the Supreme Court in ***Ashwini Kumar Upadhyay*** *(supra)*, the Division Bench-I of this Court had passed an order dated 21.12.2023, in ***Court on its Own Motion v. Union of India & Ors.:*** *W.P.(CRL) 1542/2020*, and *inter alia* directed as under:

> " 2. Having considered the order of the Hon'ble Supreme Court, in its letter and spirit, the following directions are issued for expeditious and effective disposal of criminal cases pending in the designated Courts against the members of Parliament and Legislative Assemblies:-
>
> ***
>
> (iv) In case any revision petitions regarding such matters are pending before the designated Sessions Court(s), every endeavour shall be made to dispose of the same within six months. **Where such revision petition(s) or other petition(s) are pending before Ld. Single Judge(s) of this Court, they are requested to dispose of the same as expeditiously as possible.**
>
> ***
>
> (ix) **The cases in which orders of stay of trial have been passed and are continuing for a period of more than six months, are directed to be disposed of expeditiously by the concerned Benches of this Court.** The Registrar General shall file a status report of the said cases before the next date of hearing."

(emphasis added)

102. Thereafter, *vide* order dated 02.04.2024, the Division Bench-I had directed as under:

> " 3. In line with the directives passed by Hon'ble the Chief Justice of India in ***W.P.(C) No.699 of 2016*** titled as ***Ashwini Kumar Upadhyay vs. Union of India & Anr.***, we direct the Registry of this Court to circulate this order to brother and sister Judges assigned with such cases so that priority is given to all criminal cases/appeals/revisions pending before them against the members of Parliament and Legislative Assemblies, as it is essential for expeditious and effective disposal of such cases."

103. Thus, it is incumbent upon this Court that cases falling under the MP/MLA category are taken up and disposed of expeditiously, particularly in situations where any stay order has been passed. The purpose behind such directions is to ensure that criminal proceedings involving former or sitting elected representatives are not allowed to remain pending indefinitely.

104. Notably, several recusal applicants have picked up certain revision petitions and referred to them in their applications, to suggest what, *according to them*, is the uniform practice of this Court in granting dates in such cases.

105. In this regard, it must be noted that the applicants have ***conveniently ignored*** an important aspect. The cases listed before this Court – as per the Roster assigned by the Hon'ble Chief Justice – include matters relating to MP/MLA cases, as well as matters which do not fall within that category. As far as cases pertaining to MPs

and MLAs are concerned, this Court is guided by the directions of the Hon'ble Supreme Court as well as by the orders of Division Bench–I of this Court, as noted above.

106. Pertinently, none of the revision petitions, details whereof have been mentioned in the recusal applications, fall within the MP/MLA category.

107. If a litigant chooses to rely upon examples of dates given in some cases, particularly ignoring those falling within the MP/MLA category, then such comparison must be fair and complete. The litigant cannot selectively refer only to those matters where longer dates have been granted, while ignoring cases where proceedings have been conducted on short dates or on a day-to-day basis. ***By way of illustration***, in an appeal against conviction preferred by a sitting MLA (CRL.A. 328/2026) recently, the matter was listed before this Court on 04.04.2026, 07.04.2026, 08.04.2026, and 15.04.2026, and the respondent therein was granted only one week's time to file a reply to the appeal.

108. In this background, suffice it to say, the attempt made by the applicant Sh. Arvind Kejriwal who appeared in person, as well as the other recusal applicants, to compare the dates granted in cases not pertaining to the MP/MLA category, with the present case which falls within that category, is ***wholly misplaced*** inasmuch as such a comparison ignores the legal framework governing these matters and

the directions binding upon this Court. The attempt to draw such a comparison, therefore, deserves to be deprecated.

109. Moreover, the ***absurd submission*** of the recusal applicants that this Court has "deviated from its usual or uniform practice" of granting longer dates in general, by granting shorter dates in the present matter, also **completely ignores** the fact that fixing dates and regulating the proceedings of a case fall within the sole prerogative of the Judge hearing the matter. **There are also cases which are taken up and decided on the very same day or where short adjournments are given– something which the applicants have conveniently chosen not to mention, as the effort appears to be more directed towards finding fault with the Judge and the functioning of the Court.** However, this is understandable. A layperson cannot be expected to fully appreciate how a Judge with nearly thirty-four years of judicial experience manages the Court, based on the competence demonstrated over the years to those to whom it is to be demonstrated, and the experience gained in the discharge of judicial duties over decades.

110. To give an ***illustration*** in this regard, this Court in case titled ***Sachin Bajpai v. Union of India & Ors.:*** *W.P.(Crl.) 4250/2025*, had stayed the summons issued by the CBI to an advocate on the very first date of hearing itself, on a Saturday, without awaiting any reply from the CBI, after observing *prima facie* that the advocate in question could not have been summoned by the investigating officer by treating him as a suspect merely for discharging his professional

duties, and that such action appeared to be in direct contravention of the guidelines laid down by the Hon'ble Supreme Court. **On the very first date of hearing**, an order running into 9 pages, **containing detailed *prima facie* observations, was passed against the CBI** and the operation of the impugned summon was stayed.

111. Thus, it is for the Judge to decide which cases require longer dates, which matters can be adjourned for a later date, which require shorter adjournments of a few days, and which matters can be taken up again on the same day after a few hours. These are aspects of the normal functioning of a Court and cannot, by any stretch, be made grounds for alleging bias.

112. Even otherwise, an accused cannot be permitted to re-write jurisprudence or the settled practices governing the judicial and administrative functioning of courts. Nor can an accused dictate how a Court is to be run by the Judge holding the Court. These matters fall squarely within the domain of the Court and are guided by established principles, statutory requirements, and binding directions of the Higher courts. Such aspects are not open to scrutiny on the basis of political considerations or personal perceptions, as the independence of the judiciary and the principle of separation of powers require that courts be allowed to function without such external interference.

C. ALLEGED APPREHENSION OF BIAS ARISING FROM EARLIER DETAILED JUDGMENTS OF THIS COURT

113. One of the grounds on which the recusal applicants, particularly applicants Sh. Arvind Kejriwal and Sh. Manish Sisodia, have sought recusal of this Court is that while dealing with matters arising out of the Delhi Excise Policy case in the past, this Court had passed detailed judgments and recorded findings on several aspects.

114. The applicant Sh. Arvind Kejriwal, during the course of arguments, described those findings as '*conclusive findings of this Court*' and '*almost holding him guilty*' and declaring him '*super corrupt*' ("*maha corrupt*"). He also argued that there was no need for this Court to give such detailed findings while deciding earlier matters, including the case where he had challenged his arrest by the DoE in ***Arvind Kejriwal v. Enforcement Directorate*** *(supra)*.

(i) Earlier Findings of this Court in respect of Challenge to Arrest under Section 19 of PMLA

115. In this regard, it is necessary to note that in the case of applicant Sh. Arvind Kejriwal, he had filed a writ petition challenging the legality of his arrest by the DoE (i.e. *W.P.(CRL) 985/2024*). Such arrest is effected under Section 19 of the Prevention of Money Laundering Act, 2002 (PMLA), and the validity of such arrest has to be tested on the parameters laid down under the said provision. Section 19 mandates that before effecting the arrest of a person for the offence of money laundering, the concerned officer must have *reasons to believe*, based on the *material in his*

possession, that the person sought to be arrested is guilty of the offence of money laundering. It is the scheme of the PMLA and the mandate of Section 19 which requires a Constitutional Court, while examining a petition challenging the legality of arrest, to scrutinize the material in the possession of the authorised officer and reasons recorded by him, to satisfy itself whether the requirement of the statute has been complied with. Therefore, the Court is required to examine the material relied upon by the investigating agency to ascertain whether the formation of such belief was based on relevant material.

116. It is also a matter of record that it was applicant Sh. Arvind Kejriwal himself, who through his then learned Senior Counsel Sh. Abhishek Manu Singhvi had addressed extensive arguments before this Court while challenging his arrest by the DoE. Detailed submissions were advanced, including questioning the evidentiary value of the statements of approvers and other witnesses recorded by the CBI and the DoE. Arguments were also addressed on the aspect that no alleged proceeds of crime had been recovered, on the timing of the arrest of applicant Sh. Arvind Kejriwal, and on various other aspects relating to the investigation.

117. Since arguments at considerable length were addressed before this Court, and the Court was called upon to examine those contentions and determine whether the arrest of the petitioner was valid or liable to be declared illegal, *it became necessary* for this Court to deal with the contentions raised on behalf of the petitioner

in detail. Thus, the findings were given by this Court for the benefit of the accused himself, that he knows as to why his petition was being rejected.

118. This Court wonders that had it not dealt with those elaborate arguments, in detail in its judgment, the applicant Sh. Arvind Kejriwal may then have raised a grievance that the submissions advanced on his behalf had been overlooked or ignored by the Court.

(ii) Earlier Findings of this Court in respect of Bail under Section 45 of PMLA

119. *Similarly*, in other matters wherein this Court had dealt with bail applications filed by Respondent No. 8, Respondent No. 9 and Respondent No. 17, and one Sanjay Singh, the Court was dealing with bail applications under the provisions of the PMLA. Section 45 of the PMLA lays down twin conditions for the grant of bail and *inter alia* mandates that before granting bail, the Court must record a finding that there are reasonable grounds for believing that the accused is not guilty of the offence of money laundering. In order to comply with this statutory mandate, it becomes necessary for the Court to examine the material collected by the investigating agency at that stage and to consider the arguments raised on behalf of the accused persons. It is only after such examination that the Court can arrive at a *prima facie* conclusion as to whether the conditions prescribed under Section 45 of the PMLA stand satisfied. It is again relevant to note that in those cases as well, the learned counsels

appearing on behalf of the accused persons had addressed detailed arguments before the Court. In fairness to the parties and in discharge of its judicial duty, this Court dealt with the submissions raised before it and recorded its *prima facie* findings while deciding the bail applications.

120. Pertinently, in the case concerning the bail applications filed by Respondent No. 8, this Court had disposed of two bail applications, one relating to the CBI case and the other relating to the DoE case. In those matters, arguments had been addressed both on the issue of delay in trial as well as on the merits of the allegations, and the Court had dealt with both aspects while passing the order.

121. ***However***, in all these judgments, this Court had specifically observed that the observations recorded therein were only *prima facie* in nature and were not to be treated as a final opinion on the merits of the case. It was so because, at that stage, arguments on charge had not yet been addressed and the Court was required to consider only the material placed on record by the prosecution for the limited purpose of deciding whether a case for grant of bail, or a case for declaring the arrest invalid, as the case may be, was made out.

122. The observations of the Hon'ble Supreme Court in ***Indore Development Authority (Recusal Matter-5) v. Manohar Lal:*** *(2020) 6 SCC 304*, which are also pertinent to note, are set out below:

> "43. Having surveyed the precedents cited at the Bar, and having considered the arguments, it is my considered view that a judge rendering a judgment on a question of law would not be a bar to her or his participation if in a larger Bench if that view is referred for re

> consideration. The previous judgment cannot constitute bias, or a pre- disposition nor can it seem to be such, so as to raise a reasonable apprehension of bias. Nor can expressions through a judgment (based on the outcome of arguments in an adversarial process) be a "subject matter" bias on the merits of a norm or legal principle, or provisions. The previous decisions and practice of this court have clearly shown that there can be and is no bar as the respondents' senior counsel argue. Accepting the plea of recusal would sound a death knell to the independent system of justice delivery where litigants would dictate participation of judges of their liking in particular cases or causes.
>
> 44. Recusal is not to be forced by any litigant to choose a Bench. It is for the Judge to decide to recuse. The embarrassment of hearing the lengthy arguments for recusal should not be a compelling reason to recuse. The law laid down in various decisions has compelled me not to recuse from the case and to perform the duty irrespective of the consequences, as nothing should come in the way of dispensation of justice or discharge of duty as a Judge and judicial decisionmaking. There is no room for prejudice or bias. Justice has to be pure, untainted, uninfluenced by any factor, and even decision for recusal cannot be influenced by outside forces. However, if I recuse, it will be a dereliction of duty, injustice to the system, and to other Judges who are or to adorn the Bench/es in the future. I have taken an informed decision after considering the nitty gritty of the points at issue, and very importantly, my conscience. In my opinion, I would be committing a grave blunder by recusal in the circumstances, on the grounds prayed for, and posterity will not forgive me down the line for setting a bad precedent. It is only for the interest of the judiciary (which is supreme) and the system (which is *nulli secundus*) that has compelled me not to recuse."

123. This Court's attention was also drawn by the learned counsel appearing for the recusal applicants to the decision in ***Kanaklata v. State (NCT of Delhi)*** *(supra)*, contending that there may be situations where earlier strong observations made by a Court can give rise to a reasonable apprehension in the mind of a litigant. ***However***, the facts of the said case are clearly distinguishable from the present case. In the said case, the learned Trial Court, while discharging the accused of offences under the SC/ST Act, had made

strong and wide-ranging observations regarding the alleged misuse of the provisions of the Act. When the matter reached the High Court, although safeguards were provided by directing the Trial Court to decide the matter afresh without being influenced by its earlier observations, the Hon'ble Supreme Court noted that the earlier order was so strongly worded that it could still give rise to a reasonable apprehension in the mind of the complainant. It was in those peculiar facts that the transfer was permitted.

124. The situation in the present case is entirely different. Here, the discharge order passed by the learned Trial Court is itself under challenge before this Court, for the first time, and this Court has not dealt with the discharge order on any earlier occasion as the same was passed on 27.02.2026. Unlike the facts in case of ***Kanaklata v. State (NCT of Delhi)*** *(supra)*, the observations made by this Court in the past, while deciding either bail applications or the challenge to arrest under PMLA, were confined only to the material available on record at that point of time, as per mandate of Section 19 or 45 of PMLA. Those observations do not travel beyond the case so as to create any independent or generalized prejudice of this Court qua the entire case in general. Therefore, the reliance placed on the said decision can be of no help to the recusal applicants.

125. Therefore, the submission of the applicant Sh. Arvind Kejriwal that this Court had delivered detailed judgments without any necessity is clearly without merit. The contention that this Court might have pre-judged the present case, merely because it had given

detailed findings while deciding these earlier petitions and application, is also devoid of merit.

(iii) Relief denied by Other Benches too

126. Another aspect which cannot be ignored is that the attempt of recusal applicants to portray as if all adverse orders in matters arising out of the Delhi Excise Policy case were passed only by this Court is factually incorrect. Notably, several orders, including orders relating to arrest and bail were also passed by different Benches of this Court, much before this Court was even assigned the MP/MLA roster and even after that. Some of these instances are:

- **Arvind Kejriwal – Validity of Arrest in CBI Case:** The order upholding the arrest of the applicant Sh. Arvind Kejriwal, in the CBI case, was not passed by this Court, but by another Bench.
- **Arvind Kejriwal – Stay of Bail in DoE Case:** The bail granted to the applicant Sh. Arvind Kejriwal by the learned Trial Court in the DoE case, was stayed not by this Court, but by another Bench.
- **Manish Sisodia – First Round of Bail Applications:** The first round of bail applications of the applicant Sh. Manish Sisodia, in this case were also not rejected by this Court, but by another Bench, and the same were subsequently dismissed by the Hon'ble Supreme Court too.

- **Other Co-Accused:** The bail applications of several other co-accused in the present case were dismissed by another Bench, at a time when this Court had not even been assigned the MP/MLA roster by the Hon'ble Chief Justice.

127. Therefore, the argument propounded that this Court has always taken views adverse to the respondents herein and denied them bails etc., for which any other Court may hear this matter, is clearly misplaced since the above facts clearly show that adverse judicial orders in the present Delhi Excise Policy matter were not confined to this Court alone, but were passed by several Benches of this Court, in accordance with law.

(iv) Argument that findings of Trial Court are contrary to this Court

128. Another interesting argument raised by applicant Sh. Arvind Kejriwal, who appeared in person, as well as some other recusal applicants, was that the findings recorded by the learned Trial Court in the impugned discharge order are completely contrary to the views expressed by this Court in the past while deciding his petition challenging arrest by the DoE and while deciding bail applications of co-accused persons. On that basis, it was suggested that since this Court had earlier taken a different view than the Trial Court, for instance, on law of approvers, this Court may not be able to appreciate or uphold the findings of the learned Trial Court.

129. The recusal applicants, in a way, also sought to place the findings of the learned Trial Court on a higher pedestal than those of this Court, so as to persuade this Court, that because this Court does not think in the same manner as the learned Trial Court, they therefore have an apprehension that they will not receive a fair hearing.

130. This argument, however, is wholly misconceived. The passing of an order either in favour of or against a party is based solely on the facts of the case and the applicable law. Such submission also proceeds on the assumption that once a Court has expressed a *prima facie* view at an earlier stage, it becomes incapable of examining a subsequent order with an open mind. That is neither the position in law nor the manner in which judicial functioning operates. While deciding earlier petitions arising out of the Delhi Excise Policy case, this Court was dealing with matters such as challenge to arrest and applications for bail under the provisions of the PMLA. Those proceedings required examination on entirely different legal parameters and at a stage where arguments on charge had not even been addressed. The observations made therein were necessarily confined to that limited stage and were specifically recorded to be only *prima facie* in nature, without expressing any final opinion on the merits of the case. As noted above, detailed observations were recorded in those judgments since detailed arguments were addressed before this Court.

131. The present proceedings however arise from a revision petition challenging the discharge order passed by the learned Trial Court. The scope, the stage, and the legal questions involved are entirely different. This Court is now required to examine the impugned order independently, on the basis of the material on record, the reasoning of the learned Trial Court, and the settled principles of law governing law on charge. That exercise cannot be presumed to be foreclosed merely because this Court had earlier dealt with different proceedings arising from the same case.

132. If such an argument were to be accepted, it would mean that no Judge who has ever decided a bail application, anticipatory bail application, or challenge to arrest in a criminal case would thereafter be competent to hear proceedings arising from the same FIR. That is neither the law nor the practice of courts. In fact, the position of law is contrary and there are specific directions issued by the Hon'ble Supreme Court wherein it has been directed that, in order to avoid conflicting or inconsistent orders, matters arising out of the same FIR, especially bail applications, ought to be listed before the same Judge [Ref: ***Sajid v. State of Uttar Pradesh:*** *SLP(Crl) No. 7203/2023*; ***Rajpal v. State of Rajasthan****: SLP (Crl.) No. 15585/2023*; ***Shekhar Prasad Mahto @ Shekhar Kushwaha v. The Registrar General, Jharkhand High Court & Anr.****: WP (Crl.) No. 55/2025*; ***M/s Netsity Systems Pvt. Ltd. v. The State Govt. of NCT of Delhi & Anr.****: 2025 INSC 1181*].

133. The judicial system functions within a well-defined hierarchy, and every Court performs its role according to law. A Trial Court may take one view, the High Court may take another, and the Hon'ble Supreme Court may examine both. That is the normal course of the judicial process. A litigant cannot seek recusal merely because he apprehends that a Court which had earlier expressed a *prima facie* view may not agree with the findings of the learned Trial Court.

134. The **High Court does not approach such matters to defend its earlier observations, nor to oppose the findings of the learned Trial Court. It approaches the case as a constitutional court, with judicial discipline, an open mind, and a duty to decide in accordance with law.** Therefore, this ground for seeking recusal is completely without merit.

(v) Relief Was Granted Too – But Conveniently Ignored

135. The further argument advanced by the recusal applicants that this Court has never granted any relief to any of the accused persons in the 'Delhi liquor policy cases', is also factually incorrect and contrary to record.

136. This Court notes that it is the accused, who himself has been mentioning in his pleadings and arguing and referring to in his arguments that in 'Delhi Liquor Policy cases' and this is not a term coined by this Court.

137. Even applicant Sh. Arvind Kejriwal himself admitted during the course of arguments that this Court had granted interim bail on medical grounds to one of the accused, Arun Ramachandra Pillai (Respondent No. 5 in the present case), who has also filed a recusal application before this Court. Therefore, the broad submission that this Court has uniformly denied relief to all accused persons in these matters is plainly incorrect.

138. Similarly, in the case of accused Amandeep Singh Dhall (Respondent No. 9 in the present case), pursuant to orders passed by this Court, he was provided hospitalization and medical treatment of his choice in hospitals including AIIMS, ILBS, Safdarjung Hospital, and Indian Spinal Injuries Centre. **In fact, out of the total custody period of about fifteen months, he was permitted to remain in judicial custody while being hospitalised for surgery and thereafter for a substantial period for post-surgery physiotherapy and post-epidural care. For more than 06 months, he continued to remain under medical care outside the jail premises,** primarily because the required physiotherapy machines and facilities were not then available in the jail hospital or the referral hospitals, and the accused had insisted that even AIIMS was not able to provide the kind of treatment which he claimed he was entitled to receive. Taking note of his grievance regarding the non-availability of proper physiotherapy equipment in jail hospitals, this Court had also issued directions to the Government of Delhi, i.e. the political party of Sh. Arvind Kejriwal, and constituted a Committee

for the purpose of assessing the requirement of necessary medical equipment in jail hospitals, *vide* judgment dated 22.12.2023 in BAIL APPLN. 2229/2023. The purpose was not confined to the case of one accused alone, but to address a larger issue concerning the medical care of undertrial prisoners and inmates facing serious health challenges in prisons.

139. Pursuant to the said directions, it was the Government of Delhi which had provided the required healthcare machines, physiotherapy equipment and other medical facilities, which were earlier not available in the jail hospitals. These facilities are now available for the benefit of all prisoners.

140. Therefore, the attempt to project that this Court has never granted any relief to the accused persons in the Delhi liquor policy cases is not only incorrect, but also a selective presentation of facts. **A litigant cannot choose to remember only those orders which do not favour him and conveniently forget those where relief was granted.**

D. ARGUMENT OF RECUSAL APPLICANTS THAT PREVIOUS JUDGMENTS OF THIS COURT WERE SET ASIDE BY THE HON'BLE SUPREME COURT

141. Another submission made before this Court was that the earlier detailed judgments passed by this Court, relating to challenges to arrest or applications for bail, as noted above, were subsequently overruled by the Hon'ble Supreme Court.

142. In this regard, it is to be noted that the bail application of an accused Sanjay Singh, in the PMLA case was rejected by this Court *vide* judgment dated 07.02.2024 [*Ref*: ***Sanjay Singh v. Directorate of Enforcement:*** *2024:DHC:906*]. The said accused – **who is not even an accused in the CBI case and is not a respondent before this Court in the present proceedings** – was granted bail by the Hon'ble Supreme Court, **on the basis of a concession made by the DoE** that he may be enlarged on bail, and the Hon'ble Supreme Court had specifically recorded in the order dated 02.04.2024 that **'no comments'** were made **on merits** of the case [Ref: ***Sanjay Singh v. Directorate of Enforcement:*** *SLP(Crl.) No. 2558 of 2024*].

143. *Similarly*, in the case of Sh. **Manish Sisodia** (Respondent No. 8 herein), the Hon'ble Supreme Court granted bail to the said accused on the ground of **delay in trial** *vide* judgment dated 09.08.2024 [*Ref:* ***Manish Sisodia v. Directorate of Enforcement:*** *2024 INSC 595*]. However, **no observations** were made by the Hon'ble Supreme Court on the merits of the case or on the findings recorded by this Court qua the merits of the case while deciding his bail applications on 21.05.2024. It is also relevant to note that at an earlier stage, the Hon'ble Supreme Court itself had rejected the bail application of Respondent No. 8 – on merits – after considering the allegations and the material placed against him [Ref: ***Manish Sisodia v. Central Bureau of Investigation:*** *2023 INSC 956*]

144. As far as **applicant Sh. Arvind Kejriwal is concerned, it is pertinent to note that when he had challenged the judgment of**

this Bench, upholding the validity of his arrest, **the Hon'ble Supreme Court had found that there were, in fact, sufficient "reasons to believe" for the purpose of effecting his arrest under the provisions of the PMLA, that he was guilty of the offence of money laundering**. However, only the issue regarding the need and necessity of arrest, and whether such necessity is to be read into the power of arrest under the statute, was **referred by the Hon'ble Supreme Court to a larger Bench for consideration, and this Court's order was not set aside**. Since the said issue was referred to a larger Bench and its adjudication was likely to take some time, the Hon'ble Supreme Court considered it appropriate to grant **'interim bail'** to applicant Sh. Arvind Kejriwal, who had earlier also been released on interim bail for the purpose of canvassing and contesting elections.

145. When a Judge sits as a neutral adjudicator, the parties appearing before the Court cannot question the competence of the Judge by stating that since some of her judgments have been modified or set aside by a higher court, she is therefore not fit to do justice. **Just as politicians are left to perform their duties in the Parliament and the Vidhan Sabhas, judges must be left to their own processes and institutional mechanisms which test their competence and their ability to do justice.** *Needless to say*, every litigant has the right to challenge an order of the High Court before the Hon'ble Supreme Court, and that is the course which the law itself provides. There exists a clear boundary line for judges when it

comes to entering the domain of Parliament or the State Legislature and questioning certain aspects, except as permitted under the Constitution. The same principle applies in reverse. A politician, or an accused who happens to be a politician, cannot be permitted to cross that boundary and sit in judgment over the competence of a Judge.

146. In any case, the fact that a judgment of a High Court is set aside or modified by the Hon'ble Supreme Court, can never be a ground to seek recusal of the Judge. Judicial decisions are always subject to appellate scrutiny, and correction by a higher court is an integral part of the judicial process. To treat such appellate interference as a ground for alleging bias would go against the very system of the hierarchy of courts in our country. This ground, therefore, being devoid of any merit, deserves to be rejected.

E. APPREHENSION OF BIAS EMERGING FROM A STATEMENT ALLEGEDLY MADE BY THE UNION HOME MINISTER

147. This Court also notes that the applicant Sh. Arvind Kejriwal stated at the Bar that the Union Minister of Home Affairs had made a statement in a television programme to the effect that when the judgment of this Court comes, Sh. Kejriwal will have to approach the Hon'ble Supreme Court, which has created reasonable apprehension in his mind regarding bias.

148. However, this Court finds that neither has this ground been mentioned in the recusal application nor were any details provided during the course of arguments as to what exactly was said, in which television programme, or on what occasion such a statement was made.

149. Seeking recusal of a Court on such a ground, that a Union Minister, or for that matter any politician appearing in a television programme, has expressed an opinion that a Court may pass an order adverse to a particular party, would amount to proceeding purely on imaginations and misbeliefs of the litigant. Clearly, this Court has no control over what any politician or the litigant, such as the applicant Sh. Arvind Kejriwal, who himself is a politician, may choose to state in the public domain or in his political life. It equally cannot regulate or control statements made by politicians in public discourse.

150. Even otherwise, it is a matter of common knowledge that rival political parties often make claims in public as to what a Court may decide in a given case, each advancing its own narrative to suit its political position. Courts, however, are not concerned with such statements or claims and are guided only by the material placed before them and the applicable law. This ground is, therefore, rejected as being devoid of any merit whatsoever.

F. ALLEGED APPREHENSION OF BIAS ARISING FROM PARTICIPATION OF THIS COURT IN EVENTS ORGANISED BY ONE AKHIL BHARATIYA ADHIVAKTA PARISHAD

151. Out of all the recusal applications filed before this Court, this particular ground has been urged only by the applicant Sh. Arvind Kejriwal and by no other recusal applicant.

152. It was stated by the applicant Sh. Arvind Kejriwal that this Court had attended programmes organised by one Akhil Bharatiya Adhivakta Parishad on about four occasions over the last few years, and on that basis, he has reasonable apprehension of bias. He also stated, during the course of his arguments, that he follows an ideology which is opposite to that followed by Akhil Bharatiya Adhivakta Parishad, and that he strongly opposes it. However, upon being asked a specific question as to whether his argument was that this Court had made any ideological statement, supported the ideology followed by the said Parishad, or delivered any political speech at such programmes, he categorically denied the same. He specifically stated that he was not suggesting so at all, and that he was neither doubting this Court nor suggesting that this Court follows their ideology. ***According to him***, it was only his own personal belief and apprehension that perhaps this Court may have some “sympathy” towards them on mere account of attending such programmes.

153. At the outset, this Court must state that the functions or programmes organised by Akhil Bharatiya Adhivakta Parishad,

which were attended by this Court and are being referred to by the applicant Sh. Kejriwal, were not political functions or party events. They were programmes organised by a body of lawyers, where occasions such as Women's Day celebrations, seminars for lawyers on new criminal laws, and other professional discussions were conducted, and speakers were invited to interact with members of the legal fraternity. The CBI has also placed on record, along with its reply and annexures, copies of some flyers of the programmes organised by Akhil Bharatiya Adhivakta Parishad. A bare perusal of the same would reveal that several judges of this Court, and even judges of the Hon'ble Supreme Court, have attended such events.

154. In my opinion, merely because in my capacity as a Judge, I was invited to deliver a lecture or interact with younger members of the Bar or other members of the legal fraternity, the same cannot be used to insinuate political association or ideological bias. For the last several decades, judges of various High Courts and even the Hon'ble Supreme Court have attended such events – not as members of any political party or as persons associated with them – but purely in their capacity as judges interacting with the members of the Bar. It is not the case of the litigant, who appeared and argued in person, that the said Adhivakta Parishad is not a body of advocates.

155. Such an argument has to give way to the right and duty of a Judge to attend legal functions organised by members of the Bar, for the benefit of the legal fraternity. It is difficult to understand what is meant by "sympathising" with a lawyers' body without any specific

allegation or material. Though it is understandable that membership of, or active participation in the affairs of a foundation or body having direct affiliations or specific interests may, in some situations, may raise a reasonable apprehension of bias, it is however difficult to appreciate how, in the complete absence of such circumstances, mere participation as a chief guest, guest, or speaker in a legal programme organised by a body of lawyers can, by itself, give rise to any reasonable apprehension of bias, or lead to a conclusion that such participation has foreclosed the Judge's ability to approach the case with an open mind.

156. It also does not escape the notice of this Court that the applicant Sh. Arvind Kejriwal has selectively placed on record only those events attended by this Court which were organised by Akhil Bharatiya Adhivakta Parishad. However, this Court, as well as many other Judges, routinely attend official functions organised by various universities and law schools such as the University of Delhi, National Law Universities, private colleges, and different forums of lawyers. Even while serving as a District Judge, I had visited several schools and colleges for delivering lectures as part of legal literacy programmes. Needless to say, such educational institutions or forums may at times be headed by individuals who may have their own political ideologies. However, such participation is part of maintaining the relationship between the Bench and the Bar, and also of engaging with the younger members entering the profession or even at times, the community in general.

157. Whatever the organisation or university it may be, whosoever its founders may be, judges are invited in their capacity as 'Judges of Courts' to interact with law students or members of the Bar. In such interactions, there is no space for any personal or political ideology, and the engagement remains confined to law, the functioning of Courts, and the relationship between the Bar and the Bench.

158. Thus, the relationship between the Bar and the Bench is not confined only to courtrooms, and it extends to various professional and institutional interactions. It is also not uncommon for Bar Associations to organise events such as seminars, lectures, farewell functions on the retirement of judges, or gatherings on festivals or occasions like New Year, where members of the Bar and the Bench interact with each other. Even friendly sports matches are played between the Bar and the Bench.

159. Whenever the members of the Bar and the Bench meet in such settings, they do not meet with the tinted glasses of their political affiliations. The relationship between the Bar and the Bench stands above such considerations. How such participation, in any manner, can become a matter of concern for an accused person appearing before the Court is difficult to comprehend.

160. This Court is of the considered and firm opinion that **no litigant can be permitted to sever or weaken the relationship between the Bar and the Bench, which is sacred and stands above the politics of any level. The Bar and the Bench share a**

relationship which may perhaps be beyond the understanding of many, but the Bar and the Bench themselves understand it in the manner in which it has been understood historically.

161. Furthermore, some members of the Bar may, at times, be representing a particular political party in a case, or may be known to be associated with a political party. However, when they appear before a Court of law, whether in a private matter or otherwise, their cases are adjudicated on the basis of the merits of the case they argue, and not and not by judging a person through the prism of ideology or political affiliation.

162. Similarly, many persons are appointed to the Bench from the Bar. Merely because they were once members of the Bar, have professional associations, or friendships within the Bar, cannot be viewed through the lens of bias. The relationship of a Judge with the Bar and its members is a natural and necessary part of the justice delivery system. However, the limits of such participation and interaction are not to be dictated by a litigant, but by judicial ethics and the discipline of the office itself.

163. If such a proposition is to be accepted, the same logic would then apply to conferences on arbitration, intellectual property rights, legal aid, or any other legal subject. Judges and lawyers participate in such programmes regularly. Some are organised by Judges and some by lawyers. Before sending invitations, do organisers ask what ideology a lawyer follows, what religion he belongs to, or whether he

appears for a particular political party? The argument, in itself, is mischievous.

164. Such acceptance would also lead to judges avoiding and declining intellectual engagements and social events organised by the Bar and attended by the Bench, or organised by the Bench and attended by the Bar. Judges, by this standard, would be forced to withdraw from public legal discourse and from sharing their experiences and knowledge with younger members of the Bar and others. Further, the most dangerous outcome would be that judges would become cautious even in performing their legitimate judicial and academic duties, which they have historically been performing for decades.

165. Judges, by attending programmes, symposiums, legal discussions, and conferences in India as well as internationally, contribute significantly to legal development and law reforms. This is so common that even an ordinary, non-legal member of society can observe it. At times, judges are also part of law-framing discussions and legal education initiatives. Many District Court Judges visit universities and schools as part of campaigns run by the Delhi State Legal Services Authority (DSLSA), engaging with students in schools and colleges.

166. Accepting recusal on a ground as frivolous as attending a professional legal event, which in the perception of the litigant is allegedly linked to an ideology that he, as a politician belonging to a

rival political party, opposes, would therefore lead to consequences far beyond the present individual case. This Court cannot, through this judgment, pass an order which projects that it is normal to intimidate judges merely because they attended professional legal events organised by a group of lawyers. It would send a message to society that the judiciary can be pressurised through insinuation, and not by evidence which goes to the root of the alleged perception of bias in the mind of the litigant. Such a perception of bias in the mind of a litigant, who happens to be a political figure, cannot be used as a weapon to intimidate a judge.

167. Thus, can a Judge attending a legal event and interacting with the legal fraternity in, say, a women empowerment programme, where only a speech is delivered on women empowerment or new laws, be treated as evidence of bias? If such participation is used against a judge by a litigant who, by going through social media archives despite not having attended such events oneself, seeks recusal without specifically pointing out any ideological or political statement made by the judge at such an event, judges will eventually stop contributing meaningfully to the legal community and society, as they have historically done.

168. The **judiciary cannot be placed in an ivory tower** and expected to live a life of complete seclusion, cut off from society, organisations, and even the Bar. If that were so, how would Judges understand the society in which people live and the realities of life they are called upon to adjudicate?

169. In this Court's view, the **floodgates of courts cannot be opened** for litigants to plant seeds of distrust, suspicion, and mistrust merely on the basis of what they feel, such as personal unease, dislike for a place, or dislike for an organisation visited by a Judge. The issue then lies in the mind of the litigant who, because he follows a particular ideology and opposes another, begins to treat every person attending such a function as aligned against him. Therefore, merely because a litigant cannot tolerate people associated with a particular ideology, and despite there being no ground, reason, evidence, or material on record – as was admitted by him in Court when he clarified that this Court had neither made any political statement nor followed the ideology of the said body – he cannot be permitted to cast allegations against a Judge who has merely attended a programme organised by a body of advocates.

170. Impartiality is a presumption in favour of a Judge, just as integrity is presumed in favour of every constitutional functionary upon taking oath of office. Impartiality is not only a legal requirement but also an ethical one. When a Judge takes oath of office, there arises a presumption that she will discharge her duties fairly, without fear or favour, affection or ill-will.

171. When a person seeks recusal of a Judge, that presumption of impartiality has to be rebutted by the litigant raising such a plea. Mere apprehension or personal perception is not enough. Even when an advocate, after practising for several years, is elevated to the Bench, there is a presumption that upon taking oath as a Judge, he or

she will act impartially towards all, irrespective of the positions earlier held, including appearances for the Government or any other party. In this regard, a reference can be made to the decision in ***Trishala v. M.V. Sundar Raj:*** *(2010) 15 SCC 714*, where an objection was raised before the Hon'ble Supreme Court that one of the appellants before the High Court was a municipal corporator, and the learned Judge who had passed the impugned order had, while practising at the Bar, served as Standing Counsel for the Municipal Corporation. On that basis, it was argued that the learned Judge ought to have recused himself from hearing the appeal. It was also pointed out that in another matter, the same learned Judge had recused himself. The Hon'ble Supreme Court rejected the plea and held that merely because the learned Judge had earlier served as Standing Counsel for the Municipal Corporation, he was not precluded from hearing a case where a corporator was a party in his personal capacity. It was observed that past professional association, by itself, does not create a ground for recusal unless there is a direct nexus with the *lis* in question, and the fact that the learned Judge had recused in another matter was held to be irrelevant.

172. The real test of absence of bias is whether, despite personal experiences, professional associations, or past positions, the Judge is able to approach the case with an open mind and decide it fairly. Since there is a strong presumption of judicial impartiality attached to every Judge, it cannot be lightly displaced merely because an argument of apprehension of bias is raised.

173. *In the present case,* the litigant did not even quote a single line from any speech delivered by this Court at such functions, nor did he point out any specific context from which such an apprehension of bias could reasonably arise. In fact, he himself admitted that this Court had neither made any political speech nor expressed any ideological opinion at any such programme. In the absence of any material to the contrary, merely attending legal programmes or delivering lectures cannot be held against a Judge. The allegation that this Court may be "sympathising" with a body of lawyers merely because it attended such programmes, without any specific act, statement, or conduct to support such an inference, is wholly vague and deserves to be rejected.

G. ALLEGED APPREHENSION OF BIAS ARISING OUT OF PROFESSIONAL ENGAGEMENTS OF RELATIVES & THE ALLEGED 'CONFLICT OF INTEREST'.

174. Another argument was put forth by applicant Sh. Arvind Kejriwal, that he was strongly affected by certain social media posts which, according to him, showed that there was a conflict of interest of this Court in the present case. To further support his argument, applicant Sh. Arvind Kejriwal also filed an additional affidavit – after the judgment had been reserved by this Court, on his mere mentioning to file it in the Court – relying upon RTI reply, which had been sought by a person unconnected with the present case and was thereafter circulated on social media, with claims that a large

number of cases had been marked by the Central Government to certain family members of this Court in the last three-four years.

175. Notably, in response to the said affidavit, the CBI drew the attention of this Court to the fact that even the information obtained under the RTI Act had been deliberately misrepresented in the public domain. It was pointed out that the information supplied under the RTI Act merely reflected the "number of dockets" issued to panel lawyers and not the number of independent matters allotted to them, and that a "docket" does not mean a separate case. Once a matter is assigned to a panel lawyer, a fresh docket is generated each time that matter is listed before the Court. Thus, if one single matter is listed 20 times, 20 dockets may be issued for the same matter. Even on occasions where the Court may not hold sitting but the matter remains on board, dockets are issued as part of listing and communication.

176. Thus, it was pointed out by the CBI that the figures mentioned by applicant Sh. Arvind Kejriwal in his additional affidavit, and which are being circulated on social media at his behest, as the "number of cases assigned," were factually incorrect and mischievously projected, since they only reflected the number of dockets and not the number of separate matters marked to a counsel. The CBI also specifically stated that neither of the relatives of this Court had dealt with, assisted in, or appeared in any matter connected with the present case pertaining to the Delhi Excise Policy at any

stage before any Court, nor had they been involved in the present proceedings in any capacity whatsoever.

177. In the opinion of this Court, even if relatives of this Court are empanelled on Government panels, the litigant is still required to show the proximity, relevance, and impact of such empanelment on the present case or on the decision-making power of this Court. No such nexus has been shown. The independent professional engagements of the relatives of this Court have no connection whatsoever with the present dispute, nor do they create any financial or personal stake of this Court in the outcome of these proceedings.

178. The learned Solicitor General also highlighted the manner in which a social media campaign had been built around this issue. This Court, though takes notice of the same, is of the opinion that courts, while deciding cases, are bound by their oath to the Constitution and have to deliver justice as per law, by remaining unaffected by any narratives created in the public domain. This Court, having served as a Judge for nearly thirty-four years, is adequately trained to pay little heed to what may be said on social media, whatever be the intent or motive behind it. Although, when such campaigns are sought to be brought into judicial proceedings to cast aspersions on the integrity of a Judge, the Court may take note of the seriousness of such attempts, yet judicial decisions are rendered on the basis of law and the record before it, not on social media perceptions.

179. This issue however needs to be addressed. Merely because a Judge takes an oath of office, her family does not take an oath that they will not enter this profession or do well in it. The spouses, siblings and children of a large number of judges may be in the same profession. If the children of a judge, such as in the present case, were born to her when she was a Judicial Magistrate, and chose to walk the same path, decide to pursue the same profession, that circumstance cannot be exploited. A litigant cannot dictate how the children or family members of a Judge are to live their lives, whether they must rise through their own struggles and hard work, or whether they should be prevented from doing so. In the absence of any proof beyond doubt that the office of the Judge has been misused for the benefit of her children or family, even a whisper of such allegations cannot be permitted.

180. It may also be noted that there have been judges who were earlier Government Pleaders, Panel/Standing Counsels and who had appeared along with the highest law officers appointed by any Government whether at the centre or the State. This has been the case in the past, continues in the present, and will continue in the future. Similarly, the children of judges may assist the Government on their own strength, because they too possess their own fundamental rights. If others can be empanelled, why should the family members of judges be excluded from such empanelment, unless it is proved that they were not entitled to it?

181. In the absence of any bias or doubt regarding their integrity or ability, how can anyone question this? If the sons or wives of politicians can become politicians, there have also been instances at the Bar which have produced stellar judges who were themselves the children of politicians, yet not a single finger has been raised regarding their bias. This Court wonders that if the test of 'apprehension bias' relates to whether the children or spouses of judges are empanelled by the Central Government, the Judge should not hear such cases, then a large part of the judiciary, from the District Courts to the highest Court, would have to recuse from hearing such matters.

182. Therefore, if the wife of a politician can be a politician without having to explain her expertise or experience in that field, and if the children of politicians can enter politics, how would it be just to question the children of a Judge who study like others, struggle like others, and prove themselves in Court like others to earn their livelihood? Accepting such an argument would mean taking away the fundamental rights of the family members of judges, as if merely because their parent is a Judge, their spouse is a Judge, their sibling is a Judge, they can never enter the legal profession.

183. The Constitution of India does not bar a lawyer from holding or being associated with any particular ideology, nor does it prohibit a lawyer from representing the State or the Central Government at any stage of his or her professional career. Many lawyers, at different points in their professional lives, represent State Governments, the

Central Government, their departments, local bodies, and public undertakings before courts of law. Such empanelment follows a defined process and specific criteria.

184. There is no dearth of examples which demonstrate this principle. The legal history of this country itself provides instances where persons who had held important governmental positions, later adorned the Bench and discharged their judicial duties with distinction. There have been Judges of the Supreme Court of India who had earlier served as Ministers in a particular government or Member of Parliament and yet went on to author some of the most remarkable judgments in our judicial history and decided thousands of cases. Never was their integrity questioned merely because of their earlier association with a government.

185. The insinuation that mere empanelment on a Government panel necessarily gives rise to a conflict of interest or affects judicial impartiality is itself misplaced. Empanelment as a Government counsel is a professional engagement and nothing more. Moreover, a Judge cannot be judged on the basis of the independent professional choices of family members who are not even connected with the *lis* before the Court. To suggest otherwise would mean that merely because a person is elevated to the Bench, the family members of that Judge must give up their independent professional engagements or their empanelment with the Government. Such a proposition is neither supported by law nor by constitutional principles.

186. ***Let us explain this to the recusal applicants by way of a judicial precedent which was decided by one of the judges of this Court in similar facts and circumstances.*** A case came before a brother Judge of this Court, *now retired*, a few years back. It began with a concern raised by the petitioners therein, including a former Chief Minister of a state, who pointed out that the Judge shared a relationship with the then Attorney General of the country, against whom they had their own grievances. To them, this was enough to raise a doubt – would the Judge remain completely impartial? The Bench in question did not brush aside this concern. Instead, it paused and examined it carefully. It acknowledged the relationship openly, without any denial or hesitation. But then came the real question: does knowing someone, even closely, mean that one cannot decide fairly? The answer was clear. A judge does not carry personal equations into the courtroom. The Bench noted that it had no stake in the outcome of the case, no interest to protect, and nothing to gain. The relationship, by itself, did not create any real danger of bias. The Bench went a step further too. It reflected upon the innuendos the petitioners were really suggesting. If their argument were to be accepted, it would mean that the Attorney General would try to influence the Judge, and that the Judge would allow himself to be influenced. The Judge then turned towards the oath he had taken. His duty was to the Constitution and the law, nothing else. He was conscious that the position he held required him to rise above personal connections, perceptions, and public narratives. He also

made something very clear. If at any point he felt even a slight doubt in his own mind about his ability to decide the case fairly, he would step aside on his own. But in the case before him, there was no such doubt. And so, with that clarity, the Judge declined the request for recusal. **The story leaves behind a simple thought:** A judge may know people, may hear allegations, may face doubts, but what matters is whether those doubts are real, reasonable, and grounded in fact. Not every apprehension can become a reason to step aside. The conclusion of the story is one: recusal denied. For reference, the observations in the case of ***Virbhadra Singh & Anr. v. Central Bureau of Investigation & Ors.:*** *2017 SCC OnLine Del 7747* (Vipin Sanghi, J.) are set out below:

> "29. Coming to the submission of the petitioners that I should recuse from the case on account of my relationship with the learned Attorney General Mr. Mukul Rohatgi, in my view, the same is not a reason good enough for me to accede to the said request made by the petitioners. My relationship with Mr. Mukul Rohatgi does not pose a real danger of bias against the petitioners. That relationship does not give rise to a real or reasonable apprehension of bias in the mind of the petitioners. I have no interest in promoting the cause of either party to this case. I am not personally interested in the outcome of the case, and the effect that the same would have on the rights or position of the parties.
>
> 30.The petitioners have made allegations against Mr. Mukul Rohatgi -the learned Attorney General, with regard to his alleged hostility with the petitioner no. 1 and his alleged deeds to harass the petitioner no. 1. It is not for me to judge the correctness of the allegations made by the petitioners qua Mr. Mukul Rohatgi. Assuming, for the sake of arguments, that the allegations made by the petitioners against Mr. Mukul Rohatgi, the learned Attorney General and the political Party in power at the Centre are true, it does not follow that I, on account of my relationship with Mr. Mukul Rohatgi, should also carry or

exhibit a sense of bias in my functioning as a Judge of this Court. Mr. Justice Joseph in the *Supreme Court Advocates on Record Association (supra)* observed in paragraph 75 as follows:

> "75. Ultimately, the question is whether a fair-minded and reasonably informed person, on correct facts, would reasonably entertain a doubt on the impartiality of the Judge. The reasonableness of the apprehension must be assessed in the light of the oath of office he has taken as a Judge to administer justice without fear or favour, affection or ill will and his ability to carry out the oath by reason of his training and experience whereby he is in a position to disabuse his mind of any irrelevant personal belief or predisposition or unwarranted apprehensions of his image in public or difficulty in deciding a controversial issue particularly when the same is highly sensitive."

31. In my view, if the aforesaid test were to be applied, it cannot be said that the petitioners have any basis to have any reasonable apprehension that I would deal with this case with a bias against the petitioners.

32. The expression of apprehension of bias against the petitioners, on account of my relationship with Mr. Mukul Rohatgi, the learned Attorney General, carries with it the innuendo that:

(a) Mr. Mukul Rohatgi, the learned Attorney General (who allegedly is inimical towards the petitioner no. 1 - though there is no established basis for it) would, in breach of his professional ethics as an Advocate, and my constitutional independence, speak to me about the present case.

(b) That he would speak to me, so as to influence me in forming an opinion against the petitioners.

(c) That I would entertain such a conversation with anyone, including Mr. Mukul Rohatgi, the learned Attorney General in respect of a cause being dealt with by me as a judge.

(d) That I would, on such talk or persuasion by Mr. Mukul Rohatgi, give in, and thereby betray the trust and confidence reposed in me by the President of India in appointing me as a Judge of this Court, as well as breach my oath of office and fall in my own estimation by killing my conscience.

> 33. There is absolutely no basis for entertainment of the apprehension expressed by the petitioners in my independence to decide the present petition entirely on its merits, and merits alone. There is no justification for, or reasonableness in entertainment of any such belief by the petitioners.
>
> 34. As a Judge of this Court, I owe my allegiance only to the Constitution of India and the laws of the land. I am completely independent - financially and otherwise, and I am not subordinate to any one, much less to the learned Attorney General Mr. Mukul Rohatgi - either on account of his office, or on account of my personal relationship with him. I am fully conscious of my responsibilities as a Judge of this Court, and the trust that has been reposed in me - including in my integrity and my independence, by the President of India in appointing me as a Judge of this Court. I am sworn (by my oath of office) to do my duty faithfully, and to the best of my ability, knowledge and judgment and to perform the duties of my office without fear or favour, affection or ill-will. Like all men, I am my own conscience keeper. I would myself recuse from a case if I have even the slightest inkling or doubt in my mind that I would not be able to decide the cause freely or independently, or that it would be improper for me to judge a cause, even though, I find myself in no way incapable of judging the cause independently and fairly…"

187. In the present case too, the expression of apprehension of bias raised by the applicant Sh. Arvind Kejriwal on this ground carries certain aspects: (a) that since allocation of certain Government matters is undertaken by the learned Solicitor General of India, who is presently appearing before this Court on behalf of the CBI, the independent professional engagements of the relatives of this Court would create a channel of influence in the present proceedings; (b) that such professional work undertaken by the relatives of this Court, would mean that the Solicitor General, or the Government, could directly or indirectly influence the judicial decision-making of this

Court; (c) that this Court would permit or entertain any such influence in relation to a matter being adjudicated by it; and (d) that this Court would, on account of such perceived association, compromise the constitutional trust reposed in it, betray the oath of office taken as a Judge, and decide the case otherwise than on the basis of law, record, and judicial conscience.

188. It must be mentioned here, that the relatives of this Court, whose empanelment has been referred to by the applicant Sh. Arvind Kejriwal, have no connection whatsoever with the dispute in question. They have neither dealt with nor assisted in any matter relating to the present Delhi Excise Policy case at any stage before any Court, nor have they been involved in these proceedings in any capacity. They have no proximity to the *lis*, nor can they be perceived as having any bearing on the outcome of the present case. They have no pecuniary interest, advisory role, or any stake in the issue involved in the *lis*. They are neither directly nor indirectly concerned with, or connected to, the subject matter of the present proceedings.

189. Therefore, even in such a situation, if the line of reasoning given by the applicant Sh. Arvind Kejriwal was to be accepted, it would mean that only because relatives of this Court are empanelled on a Central Government panel, this Court should never hear any matter in which the Union of India is a party, or where the Solicitor General appears on behalf of the Union or any of its departments etc.

190. It should also mean that a Judge whose family members are empanelled as panel counsel for the Government would be disqualified from hearing any matter where the Government is a party. Thousands of cases before constitutional courts involve the Union Government or the State Government in one form or another. Similarly, in criminal cases, the State is invariably a party to the *lis*. By that logic, even if a relative is empanelled by the State Government on the civil side, or say as a prosecutor before the Trial Court, the Judge would be expected never to sit on the criminal roster in the High Court at all, since the same Government also appears through the State in all criminal proceedings. A litigant could then conveniently argue that the Court would have a conflict of interest merely because the State is a party to the proceedings, or because a Standing Counsel or Law Officer representing the Government is appearing before it. Such a proposition is neither supported by law nor by reason or any rationale or practice followed in the High Court, and cannot be accepted as a valid ground for alleging bias or seeking recusal of a court of law.

191. **The argument also raises a larger question as to what exactly is being insinuated by the applicant Sh. Arvind Kejriwal**. Is it being suggested that the relatives of this Court survive only on income earned from the cases marked to them as part of these empanelments; or that this Court itself is dependent upon, or influenced by, the earnings of its family members? Is it being suggested that a Judge of this High Court, who draws salary, status,

and constitutional responsibility from judicial office, would compromise judicial independence because of the professional engagements of family members pursuing their own careers? Such an insinuation is not only unfounded, but the same also overlooks the very nature of judicial office and the independence attached to it.

192. To summarise, in this Court's view, there is a clear distinction between a genuine conflict of interest and an attempt by a litigant to create an impression of one. A litigant, instead of seeking justice, cannot be permitted to create a situation that lowers the judicial process itself by raising unfounded allegations. A "conflict of interest" arises only where there exists a real, direct, and substantial connection or interest which may affect the impartiality of the Judge. It cannot be assumed, imagined, or inferred from remote circumstances; it must rest on tangible material and a clear nexus with the *lis* before the Court, which is absent in the present case.

193. In ***Supreme Court Advocates-on-Record Association v. Union of India:*** *(2016) 5 SCC 808*, a prayer for recusal was made before the Constitution Bench of the Hon'ble Supreme Court, which was considering the constitutional validity of the 99th Constitutional Amendment relating to the National Judicial Appointments Commission (NJAC). It was argued that one of the Hon'ble Judges on the Bench, being a member of the existing collegium system, had an interest in the outcome of the case since, if the amendment were struck down, the collegium system would continue and he would retain the constitutional role attached to it. On that basis, it was

contended that he should recuse from hearing the matter. The Constitution Bench had rejected the said plea. The Hon'ble Supreme Court, while dealing with the issue of recusal, had summarized the governing principles in paragraph 25 of the judgment as follows:

> "**25**. From the above decisions, in our opinion, the following principles emerge:
>
> **25.1.** If a Judge has a financial interest in the outcome of a case, he is automatically disqualified from hearing the case.
>
> **25.2.** In cases where the interest of the Judge in the case is other than financial, then the disqualification is not automatic but an enquiry is required whether the existence of such an interest disqualifies the Judge tested in the light of either on the principle of "real danger" or "reasonable apprehension" of bias.
>
> **25.3.** The Pinochet case [R. v. Bow Street Metropolitan Stipendiary Magistrate, exp Pinochet Ugarte (No. 2), (2000) 1 AC 119 : (1999) 2 WLR 272 : (1999) 1 All ER 577 (HL)] added a new category i.e. that the Judge is automatically disqualified from hearing a case where the Judge is interested in a cause which is being promoted by one of the parties to the case."

194. One of the Hon'ble Judges, whose recusal had been sought in the above-cited case, had also penned a separate opinion and observed:

> "**56**. Despite the factual position noticed above, I wish to record that it is not their persuasion or exhortation, which made me take a final call on the matter. The decision to remain a member of the reconstituted Bench was mine, and mine alone. The choice that I made, was not of the heart, but that of the head. The choice was made by posing two questions to myself. Firstly, whether a Judge hearing a matter should recuse, even though the prayer for recusal is found to be unjustified and unwarranted? Secondly, whether I would stand true to the oath of my office, if I recused from hearing the matters?

> **57**. …In my considered view, the prayer for my recusal is not well founded. **If I were to accede to the prayer for my recusal, I would be initiating a wrong practice, and laying down a wrong precedent.** A Judge may recuse at his own, from a case entrusted to him by the Chief Justice. That would be a matter of his own choosing. But recusal at the asking of a litigating party, unless justified, must never be acceded to. For that would give the impression, that the Judge had been scared out of the case, just by the force of the objection. A **Judge before he assumes his office, takes an oath to discharge his duties without fear or favour. He would breach his oath of office, if he accepts a prayer for recusal, unless justified. It is my duty to discharge my responsibility with absolute earnestness and sincerity. It is my duty to abide by my oath of office to uphold the Constitution and the laws. My decision to continue to be a part of the Bench, flows from the oath which I took, at the time of my elevation to this Court**."
>
> (emphasis added)

195. As an officer of the Court, I am also conscious of the fact that a lie or a false imputation, even if repeated a thousand times in Court of law or on social media, does not become the truth; it remains false, and truth does not lose its strength merely because falsehood is repeated more often. Truth, even if softly spoken and supported by conviction and reason, is always stronger and more lasting than an argument made only to damage the reputation of a Court and the credibility of an institution.

H. CONSIDERATION OF TODAY'S WRITTEN SUBMISSIONS AND CONTRADICTORY STAND OF THE APPLICANT SH. ARVIND KEJRIWAL

196. The written submissions, in rejoinder, placed on record by the applicant Sh. Arvind Kejriwal today, makes for an interesting

reading. He states in his written submissions that he never argued, and does not even argue now, that where a Judge's relative holds a Government panel, such Judge should automatically recuse. He, however, submits that the alleged 'conflict of interest' in the present case arises from the specific fact that the learned Solicitor General exercises control over the allocation of work to the relatives of this Court.

197. These two statements, when read together, are *clearly contradictory*. While on one hand, the applicant Sh. Arvind Kejriwal submits that mere empanelment would not require recusal, on the other hand, he seeks recusal of this Court on the very same circumstance, namely, the allocation of work to such panel counsels who are relatives of this Court.

198. It is also noted by this Court that, in the additional affidavit earlier filed by the applicant himself, it has been specifically stated that, as per the established procedure, it is the learned Solicitor General who marks cases to all panel lawyers. In that view of the matter, the argument now sought to be advanced appears to be self-contradictory, since if the marking of cases to panel counsels is done by a particular Law Officer, it is not done only for a selectively chosen lawyer pointed out by name by the applicant, but for all panel lawyers. It is not the case that such allocation is made only to the relatives of this Court and to no other panel counsel.

199. This Court notes that in the written submissions filed today, at one stage, the applicant asserts that mere empanelment is not sufficient to warrant recusal, and at another stage, he contends that recusal is required in this case precisely because work is allocated to the relatives of this Court, who are on Government panels, by the learned Solicitor General. These two positions cannot stand together, being inherently inconsistent. The question, therefore, arises as to why this Court is being selectively targeted on that basis and why the applicant is taking a stand contrary to his own earlier pleadings and submissions in support of the recusal application.

200. The applicant has further stated that the CBI, by arguing that such a standard would disqualify learned Judges across the country, has falsely widened the controversy, mischievously dragged the entire judiciary into the present *lis*, and that such a stand borders on contempt. He has even reserved liberty to initiate appropriate contempt proceedings against the CBI officer who signed such written submissions.

201. This submission also stands in contrast with the position taken by the applicant himself. When the applicant seeks to target one Judge and raises allegations concerning the Judge and her family, it is not considered by him to be an attempt affecting the dignity of the institution; *however*, when the CBI responds to the very same argument by pointing out its wider implications for the judiciary, the same is termed as bordering on contempt.

202. The applicant Sh. Arvind Kejriwal has also stated that it is unfortunate that the CBI is seeking to malign the entire judiciary in order to have this matter heard by a particular Judge. In this regard, it is to be noted that when similar allegations and assertions are made by the applicant himself against this Court, the same are not considered by him as amounting to any such attempt to malign the judiciary.

I. JUSTICE SHOULD NOT ONLY BE DONE, BUT SEEN TO BE DONE

203. There is no doubt that Justice should not only be done but seen to be done, however, this Court also unhesitatingly, adds to it, that justice should not only be done but it should also be seen that it cannot be manipulated, intimidated or bend pressure of any kind especially a powerful person of the society. It is to ensure that not only one litigant's trust in the Judiciary is maintained, but the trust of the entire community and the country is not shaken by mere insinuations and accusations amplified by arguments in the Court and social media. **Justice should not only be done but also be seen to be done, without being clouded or intimidated by unfounded perceptions.**

(i) Mere Unease or Anxiety of a Litigant Cannot Be a Ground for Recusal

204. The question which also arises is – who is to evaluate the appearance of such justice being done? Is it to be judged solely by a

litigant who feels uneasy only because he apprehends that he may not receive a favourable order, or is it to be assessed by the standard of a reasonable and informed person?

205. A litigant may not always be successful before a Court of law. The concern raised by applicant Sh. Arvind Kejriwal is, at best, a general concern which any litigant may have, when he apprehends that the relief granted to him by the learned Trial Court may be reversed by a higher Court. However, there is nothing unusual in a High Court examining the correctness of a judgment passed by a learned Trial Court. It is equally not uncommon for a Trial Court judgment to be set aside by the High Court, or for a High Court judgment to be set aside by the Hon'ble Supreme Court. That is the very structure of judicial hierarchy and appellate scrutiny. It is only the higher Court which can determine whether a judgment is one-sided, contrary to law, or against the principles of natural justice. To argue before a High Court, for instance, that the learned Trial Court's opinion regarding the evidentiary value of approvers is necessarily better than the *prima facie* view expressed by this Court, only shows that the argument is not based on settled legal principles or judicial precedents.

206. Even while dictating judgments, a Court does not build its inclination towards any party. Our adversarial system of adjudication requires a Court to hear both sides with an open mind and without any predetermined opinion of its own. It is this system which ensures that judicial decisions are governed only by law, the record, and

judicial conscience, and not by any other factor. Thus, such fear of a litigant cannot be sufficient to conclude that the Judge, who is yet to hear the challenge to the impugned order, is biased, merely because the litigant apprehends that the relief granted to him by the learned Trial Court may not be upheld.

207. The general unease of a litigant, or the apprehension that this Court might not grant him relief, must remain far below the elevated threshold required for a Judge to recuse. The test of apprehension of bias also cannot rest entirely upon the subjective perception of a litigant, who merely fears that the Judge may not grant him relief in view of adverse orders suffered by him in the past, and therefore seeks recusal.

208. Just as a litigant is entitled to raise a genuine apprehension of bias, the Judge is equally duty-bound to examine whether the strategy adopted in seeking recusal is itself motivated and not based on any real or reasonable perception of bias. The appearance of justice cannot be determined solely by a litigant who himself admits that his apprehensions arise from reasons which do not objectively exist.

209. Reasonable apprehension of bias, therefore, cannot be based on imagination or personal perceptions of a litigant who is guided by his own concerns or interests. In ***Chandra Kumar Chopra v. Union of India:*** *(2012) 6 SCC 369*, the Hon'ble Supreme Court reiterated that an apprehension of bias cannot be based on imagination or mere

suspicion, but must be in accord with the prudence of a reasonable person. It was observed that while the principle that justice must not only be done but also be seen to be done is of great importance, the same has to be tested on the basis of material placed on record. The Court cautioned that wild, irrelevant, or imaginary allegations made to frustrate proceedings cannot be equated with a reasonable apprehension of bias, and that such a principle cannot be invoked in a vacuum without any substantive foundation.

210. The **anxiety** of applicant Sh. Arvind Kejriwal as well as other recusal applicants also could not be fully understood by this Court because, fortunately for them, this Court is not the final Court of law and any order passed by this Court is open to challenge before the Hon'ble Supreme Court. **Notably, as has been repeatedly mentioned by the recusal applicants, especially Sh. Arvind Kejriwal, all orders passed by this Court are eventually overturned by the Hon'ble Supreme Court. If that be their own perception and the trend noted by them, then this Court sees little reason for such anxiety**.

211. To conclude, mere unease is wholly insufficient for a Judge to recuse. Allegations of even perceived bias must have some connection with reality. Suspicion without substance, and apprehension without foundation, cannot become grounds to seek recusal of a Judge

CONCLUSION

212. I, today, for nearly thirty-four years, have sat on this side of the Bench – listening more than speaking, deciding more than reacting. Faces have changed, causes have changed, times have changed, but the oath has remained constant. It has asked for little, and demanded everything: patience in provocation, silence in criticism, and faith in the process even when it is questioned.

(i) Test of Bias Cannot Be Manufactured by a Litigant

213. This Court has already undergone every test that the law and the constitutional framework requires before assuming judicial office – first as a Judicial officer, and eventually being elevated to the Delhi High Court. The Judicial Career expanding over 34 years has tested me on touchstone of not only legal issues but also on ethical parameters expected of a judge, as any other judge on the Bench with variable judicial and legal experience and law degree.

214. However, it now appears that Judges would have to pass an additional test put forth by litigants seeking recusal to prove that they are fit to hear their cases.

215. According to the line of argument of applicant Sh. Arvind Kejriwal, the pre-qualification for any Judge to hear his matter would be that – *firstly*, the Judge should not have attended any programme organised by Akhil Bharatiya Adhivakta Parishad, a body of lawyers, since he personally disagrees with its ideology, or any other such public engagement with lawyers whose ideology he may not agree

with; and *secondly*, that no member of the Judge's family should have been empanelled by the Central Government on any of its panels. Nevertheless, he has not clarified what his position would be with respect to those Judges who themselves had earlier appeared for Governments, were on Government panels, or served as law officers or senior counsel for the Government before being elevated to the Bench.

216. Be that as it may, if such a standard is to be accepted, Judges would not only have to satisfy this newly manufactured test, but would also have to ensure that their families are virtually sent into exile from the legal profession, merely because they chose law as their profession while exercising their fundamental right to livelihood and choice of profession. Such a test of bias cannot be manufactured by a litigant, nor can judicial impartiality be measured by such personal standards of a litigant.

217. A High Court judge cannot be judged on the touchstone of mere perception, suspicion, or personal belief, or misbelief, of a litigant. The standard is that of a reasonable person, and not of an individual who may be guided by his own concerns or interests or ideologies. A judge cannot abandon judicial responsibility in the face of unfounded allegations. If such a course is adopted, it would become impossible for the courts in this country to function independently.

218. It is also to be noted that personal attacks on a judge are, in effect, attacks on the institution itself. The scars of such attacks, especially if recusal is allowed on such grounds, are not temporary. They are borne by the institution for a long time. If, merely because allegations are made, the judge steps aside, it may create an impression that such allegations have some basis. However, judicial duty cannot be guided by such pressures. The matter must be dealt with in accordance with law, so that there remains no room for any genuine doubt, and the integrity of the process is preserved.

(ii) The Catch-22 of Recusal: A Litigant's Win Regardless of the Outcome

219. The self represented litigant by his arguments has also invited this Court to a catch-22 situation in the present case, which appears to create a win-win situation for the self-represented litigant. If this Court were to recuse on account of the accusations, the litigant would be in a position to claim before the country that his allegations had substance and proof and therefore, the judge has recused.

220. At the same time, if this Court does not recuse and the litigant ultimately fails to obtain relief on merits, he may say that he had already predicted such an outcome. On the other hand, if he succeeds in obtaining relief, he may again claim that the Court had acted under pressure or fear. Thus, whichever way the matter proceeds, the litigant may attempt to portray the situation in a manner that suits his narrative.

221. Judges are bound by the discipline of their office and ordinarily speak only through their orders and judgments. If such applications and applicants are entertained, and judges bow down to such vilification and sustained, systematic attacks on them, it would not merely be an attack on an individual Judge but on the institution itself. Today it may be this Court; tomorrow it may be another. Such a malaise would travel not only to the higher courts but also to the District Courts.

222. The jurisprudence of recusal has historically guarded against recusal merely at the asking of a litigant. The underlying reason is that the societal repercussions of entertaining such recusal applications, the institutional consequences, and the harm it may cause to judicial independence have always weighed heavily in the minds of the judges of the Supreme Court as well as this Court. The judicial precedents cited by this Court in the preceding discussion would also show that the path of recusal, sought by a litigant on unfounded grounds and unreasonable apprehensions, has been consciously avoided, even on allegations almost identical to those alleged against this Court.

223. Another issue that arises in the mind of this Court is that if this Court, by penning a judgment of recusal, gives an impression to the community that it can be intimidated by a political litigant, it would undermine the very duty of this Court to preserve confidence in the institution and never allow it to be weakened either by its own acts or by the acts of a litigant.

224. A recusal would also lead the public to believe that judges are aligned to a particular political party or ideology, though their oath commands them to remain neutral adjudicators. This Court, by penning a recusal, cannot allow courts to turn into battlegrounds where the judge's ideology and competence are questioned by litigants, instead of the judge neutrally adjudicating upon the criminality of the acts of a litigant or the parties, as the case may be.

225. Further, if this Court were to pen a recusal, it would open the doors for powerful litigants to attack judges, their families, and even their attendance at certain functions, making it a routine tool for forum shopping by giving it legality through such recusal. If a litigant wishes to go hunting – first for the judge deciding his case, and then for the Bench he prefers to appear before – it would not only delay the delivery of justice but would also place the other side, which may not have similar resources, at a serious disadvantage.

(iii) Whether this Court must give an '*Agni Pariksha*'?

226. The learned senior counsel Sh. Hegde, appearing for applicant Sh. Manish Sisodia, addressed a very enlightening argument, by referring to the example of '*Agni Pariksha*', which as per him, *Mata Sita* had to give not once but twice, through which he sought to convey that there are situations in life where, despite one's integrity and purity being intact, one is still called upon to prove it again and again.

227. This Court is thankful for this enlightening and novel argument. However, today, if this Court is being asked to undergo an *Agni Pariksha* by an accused who stands discharged – which means he has not been acquitted, but has only been let off at this stage by the first Court of jurisdiction on the ground of insufficiency of evidence – this Court must counter-question as to why a Judge should be asked to undergo such an *Agni Pariksha* at the mere asking of an accused who harbours apprehensions or misbeliefs about the Judge being biased, merely because he fears that the Judge may ultimately render a verdict not in his favour? No lawyer or litigant can enter a Court with a guarantee that the case will necessarily be decided in his or her favour. Until a matter is finally decided by the Hon'ble Supreme Court of this country, subject of course to the legal exceptions, no judicial determination attains finality. The same principle applies in the present case as well.

(iv) Judicial Integrity Cannot Be Put to Trial by a Litigant

228. While it can be understood that an accused may wish to prove that he is clean and honest, in that process he cannot be permitted to attempt to prove that the Judge herself is tainted. Such taint may not always be insinuated in terms of money; it may also be suggested in terms of perceived or imaginary biases of a mind which begins to look at everyone with suspicion, believing that no one will do justice to him. The applicant Sh. Arvind Kejriwal began his arguments with a sentence in the open Court, as he argued in the mix of Hindi and

English language, that "*Mai aapki bohot izzat karta hu*", that he has highest regards and respect for this Court, and is not doubting its integrity on any account, and as he further states in his Additional Affidavit in paragraph 16 that he is "not alleging actual bias, nor attributing any improper motive to this Court".

229. **The rules of natural justice must apply equally when a Judge is judging a litigant and when a litigant seeks to judge a Judge**. Can it be said that, without any material on record, a Judge can be placed under a veil of suspicion merely on the basis of apprehension? For a litigant, the Judge is expected to follow the principles of natural justice, evaluate material, and decide in accordance with law and reason. The same fairness must apply when allegations are sought to be made against a Judge. Even a political leader, howsoever powerful or influential he may be, cannot be permitted to weaken or damage an institution by making insinuations against a Judge without any material.

(v) If I were to withdraw readily…

230. There can be no doubt that I had to walk the tight-rope of deciding whether to recuse or to continue hearing the matter, while following my duty to uphold principle and the oath taken to dispense justice. I had to balance the duty to recuse, so as to avoid even the appearance of bias, with the duty to decide the case, assigned to it as per its roster, so as to ensure that justice is not evaded or delayed by mere insinuations of perceived bias raised by a litigant.

231. This Court would certainly withdraw where it is convinced that there exists a real conflict of interest and where recusal is genuinely warranted. It has done so in multiple cases in the recent past as well as earlier, sometimes even without any party raising an objection, and at times despite parties themselves stating that they had no objection to this Court adjudicating the matter. In such situations, to ensure that justice is not only done but is also seen to be done, this Court has directed transfer of such matters to other Benches, including cases falling within the MP/MLA category.

232. However, a judicial function cannot be surrendered by a Judge, nor can a Judge surrender her reputation to the mere perception of a litigant. This Court understands that, being a Judge, it is not required to respond to criticism, including criticism in the public domain that may at times be unjustified or baseless. At the same time, it is equally aware that it is not expected to submit to unfounded allegations on its integrity, to permit aspersions to be cast on its fairness, or to succumb to allegations of perceived bias while adjudicating judicial proceedings. In the opinion of this Court, that would amount to failing to perform its duty.

233. **If I were to withdraw readily without hearing arguments on these applications,** I would be abandoning my adjudicatory responsibility in the face of perceived allegations by a litigant who himself repeatedly stated during arguments that he does not doubt the integrity of the Judge, but questioned what he should do with his

own mind, which makes him believe that he will not get justice from this Court.

234. Illusions and speculations of the kind, as discussed above, on the part of a litigant cannot take the place of reasonable apprehension. Unfounded allegations cannot be given credibility merely because this Court chooses the easier path of stepping away to avoid the mud being slung at herself and her family. The test of perceived bias must also be whether such perception is objective and founded on some tangible material, or whether it is merely the suspicion of a litigant arising out of political disagreement with a party which, in his own estimation or imagination, he believes this Court may be following.

235. A recusal penned by this Court would also carry deeper constitutional ramifications, and this Court must briefly capture that concern in this judgment. Judicial independence has to be guarded by every Judge – not only by being fair to both parties in a case, but also by protecting the institution from being targeted, maligned, intimidated, and from allowing the jurisprudence of recusal to be reshaped by media pressure or litigant pressure.

THE END…

236. Before I conclude, I must record that a courtroom cannot be a theatre of perception. It is a space where doubt must answer to reason. I may add that the reputation of a Judge, including mine, cannot be so fragile that it would yield, without proof or material, to

insinuations. That reputation has been built by this Court not in a day, but after adjudication of case after case, year after year, while remaining under the scrutiny of the open Court and subject to correction within the hierarchical system of the judiciary by higher Courts.

237. In case this Court withdraws from this case in the absence of any demonstrable cause, as is required under the law of recusal, it would be attaching weight to allegations which carry none. The judicial office and Judges cannot be left vulnerable, since the reputation of a Judge and of the system is not a personal asset or shield of one Judge who is part of the system, but an institutional asset.

238. On a closer examination, the narrative constructed in the applications for recusal was found to be based on conjectures, urging this Court to withdraw from adjudication of the present case solely on the basis of perceived inclinations attributed to me and contradictory arguments. If I were to accept these applications, it would set a troubling precedent, since the competence of Judges to decide cases would then become dependent on the subjective comfort or discomfort of a litigant.

239. When the question shifts from what is decided to who decides it, it becomes my bounden duty to answer it as fearlessly as I have, all my life, decided every other question and issue between two litigants. Unfortunately, today, it is not a dispute between two

litigants that I have been called upon to decide; it is between a litigant who is a discharged accused and myself, the Judge.

240. The robe that this Court wears will not be allowed to be weighed down by insinuations. The arguments and pleadings before this Court have fallen far short of the standard required under the law and jurisprudence of recusal. Allegations and insinuations, though persistent and loud, can never take the place of the proof required in law for seeking recusal.

241. I am reminded of a powerful quote by Justice Rosalie Silberman Abella, former Judge of Supreme Court of Canada, that 'Judges are expected to bring to the Bench an open mind and not an empty one'.

242. For decades, that steadiness has not been a choice, but a duty. A judge cannot recuse to satisfy a litigant's unfounded suspicion of bias, not to avoid discomfort felt by it due to manufactured allegations.

243. Accepting the present applications would mean giving credence to an attempt to cast a shadow of doubt on the fairness of a Judge without any material, and then insisting that such a shadow alone is sufficient for the Judge to recuse from the case.

244. This Court has remained indifferent to the stature of the litigant appearing before it.

245. In case this recusal is allowed, the judicial process would not remain independent but vulnerable to insinuations which can be put

under pressure of such unfounded allegations and thus, become selectable and a strategic move in the hand of a litigant.

246. This Court will stand up for itself and for the institution when such standing is required, though it may appear difficult, this Court will decide when duty demands that a case be decided, even if inconvenient, and will not yield or retreat where doing so would erode the credibility of the institution itself.

247. The robe that this Court wears is not so light that, on a mere whisper of accusation, it would seek refuge in recusal where no reason for such recusal exists.

248. If recusal on such grounds is accepted, it would risk the adjudicatory process being shaped by the preference or discomfort of a litigant, and in that case, it would not be justice administered, but justice managed. This path is not permitted by our Constitution. The personal apprehensions of the applicants, howsoever persistently advanced, have not been able to pass the threshold test of reasonableness of bias, where a fair-minded and informed observer, in the facts and circumstances of this case, would conclude that there exists a real apprehension of bias.

249. Recusal has to stem from law and not narrative.

250. I understand **that it is a defining moment in my judicial life** and that this order would decide, as to whether I will stand my ground in performing my duty, or allow myself to be moved or

unsettled by the ground beneath my feet being sought to be shaken by accusations thrown at me.

251. If the grounds raised in these applications were to be accepted as valid grounds for disqualification of a Judge from hearing a case, the qualifications for judicial office itself would have to be redrawn, suggesting absence of a family, absence of past associations, and complete absence of social or official engagement with the Bar. The Constitution, fortunately, does not prescribe such solitude as a qualification to be a Judge.

252. **As curtains are drawn on the arguments** in these applications seeking recusal, I must add that, in this case, the file seeking recusal did not arrive with evidence. It arrived on my table with aspersions, insinuations, and doubts cast on my fairness and impartiality – though quietly worded and couched in legally assembled sentences, yet carrying much beyond the phrases. The applications were not questioning a decision, but whether the decision-maker could make a decision.

253. The easier path of recusal would have offered a quiet exit, avoided discomfort, and closed the matter without confronting the allegations, suggestions, and insinuations. However, this Court knows that the office of a Judge demands restraint and silence. Yet, such restraint and silence must not cause injury to the institution itself. Every unproven and unfounded accusation of bias or partiality is not merely a question put to an individual Judge, but also casts

aspersions upon the collective integrity of the institution of the judiciary. It is for this reason that this Court has decided to speak through this judgment, not to defend myself, but to defend that collective trust.

254. This Court is conscious of the constitutional office it holds and the discipline it demands. It has no personal interest, direct or indirect, in the outcome of the matter. The allegations levelled, the grounds raised, and the associations referred to, as discussed above, were neither proximate nor relevant to the issue in question.

255. What lends a deeper disquiet to the present application, as also submitted by the learned Solicitor General, is the attempt to attach a media-driven narrative to the proceedings, including instances of vilification, without any accountability. This Court, being trained to remain uninfluenced by such external narratives, has proceeded to decide the matter uninfluenced by any such pressure. The rule of law is not upheld on the basis of repeated allegations or media headlines, however persistent or widespread they may be. It rests on the objectivity and impartiality expected of a judge, which this Court has adhered to. At the same time, the subtle attempt to discredit the institutional integrity of the Court, and the concerns arising therefrom, have been rightly placed on record by the learned Solicitor General.

256. The powerful and the powerless are equal before this Court. There may be a political figure as one of the respondents/applicants

before it; however, the law remains completely indifferent to the status of a litigant. The Courts stand firm in their duty to treat all litigants equally.

257. The office of a Judge also demands detachment from self, for the self must yield to the credibility of the institution.

258. If this Court were to recuse, it would not be prudence, but abdication of duty, and would amount to lending legitimacy to aspersions, insinuations, and doubts when no ground for the same exists.

259. It would be an act of surrender – quiet and convenient, yet not without consequences. The signal that an institution can be bent and shaken by unverified assertions would travel far beyond this case.

260. Far more profound would be the effect if such insinuations were allowed to be closed merely in the file by this Court recusing, as they would continue to linger – in Courtrooms, in public discourse, in law schools, and in the general understanding of what real justice means and what it does not. It would also mean that the judiciary can be compelled to yield not to reason, but to narrative, diminishing the trust that justice must continue to command even when tested. This Court will not permit that faith to be eroded or allow damage to be caused to the judicial system.

261. The applications seeking recusal are, therefore, rejected, and in this rejection, this Court affirms its fidelity to the Constitution, on behalf of myself and every Judge who stands by it.

262. Justice lies not in yielding under pressure, but in doing justice objectively while enduring that pressure. This is, has been, and will remain the solemn trust, quiet strength, and unwavering resolve of this Court, i.e., to remain faithful to its oath, to not choose the easier path of recusal, but to walk the path shown by the Constitution, unhesitatingly, fearlessly, and by adjudicating without fear or favour, and state in clear terms – **that I will not recuse.**

263. In view thereof, the applications filed by the applicants are accordingly dismissed.

264. That said, despite the fact that I have decided not to recuse, this Court shall proceed to hear and decide the main petition on its merits, totally uninfluenced and unaffected by these recusal applications, and the contents thereof. The adjudication will be solely guided by the applicable law and all the settled principles governing impartial adjudication.

265. The observations made in this order were only for the purpose of deciding the present applications. The Court carries no bitterness against any applicant for moving applications for recusal since they were exercising their right, as per law.

266. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

APRIL 20, 2026/ns