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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. CRM-M-56328-2023 (O&M)
Date of decision: 09.01.2024

Satkar Kaur Gehri

...Petitioner

Versus

State of Punjab

...Respondent

2. CRM-M-63520-2023 (O&M)
Date of decision: 09.01.2024

Jasmail Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Rakesh Nehra, Sr. Advocate with
Mr. Sourabh Bhoria, Advocate and
Mr. Vikramjeet Singh, Advocate for the petitioner
(In CRM-M-56328-2023)

Mr. Sant Pal Singh Sidhu, Advocate and
Mr. Sarbuland Mann, Advocate for the petitioner
(In CRM-M-63520-2023)

Mr. Kunal Muthreja, AAG, Punjab.
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VIKAS BAHL, J. (ORAL)

1. This order will dispose of two petitions i.e. CRM-M-56328-2023 filed by Satkar Kaur Gehri and CRM-M-63520-2023 filed by Jasmail

Singh under Section 439 Cr.P.C. for grant of regular bail in case FIR No.23 dated 18.09.2023 (Annexure P-1) under Sections 13(1)B and 13(2) of the Prevention of Corruption Act, 1988 (hereinafter to be referred as "the 1988 Act") and under Section 120-B of Indian Penal Code, 1860 registered at Police Station Vigilance Bureau Range Ferozepur, District Ferozepur.

FACTUAL BACKGROUND:-

2. Brief facts of the present case are that FIR No.23 dated 18.09.2023 (Annexure P-1) was registered under Sections 13(1)B and 13(2) of the Prevention of Corruption Act, 1988 and under Section 120-B of Indian Penal Code, 1860 at Police Station Vigilance Bureau Range Ferozepur, District Ferozepur by Gurmeet Singh, PPS against both the petitioners who have filed two separate regular bail applications, on the allegations that in pursuance of Vigilance Enquiry No.2 of 2023 carried out with respect to period from 01.04.2017 to 31.03.2022 to check the creation of wealth beyond the known sources of the petitioner-Satkar Kaur Gehri, Former MLA Ferozepur, it was found that during the check period, the said petitioner had income of Rs.1,65,34,053/- and the expenses incurred by her were Rs.4,49,19,831.14 and as such, it was found that excess expenditure incurred by the petitioner-Satkar Kaur Gehri was Rs.2,83,85,778.41 and she had thus, committed the offence under Sections 13(1)B read with Section 13(2) of the 1988 Act as amended by PC (Amendment) Act, 2018 and 120-B of IPC and had spent more money than her means and had purchased properties in her name and in the name of petitioner-Jasmail Singh who is her husband. In pursuance of the above, the abovesaid FIR has been registered. Both the petitioners were arrested on 18.09.2023 and thereafter,

the challan/final report under Section 173(2) of Cr.P.C. had been prepared on 14.11.2023 (Annexure P-2 in CRM-M-63520-2023) and has been presented in the trial Court and the matter is now fixed for framing of the charges and there are 48 prosecution witnesses, out of which, none have been examined as yet. As per the challan, it has been alleged that income received by the petitioners during the check period was Rs.1,65,37,960/- and the expenditure incurred by the petitioners during the said period was Rs.4,33,78,427/-. It is further alleged that the value of the property of the petitioners at the time of the beginning of the check period was Rs.7,05,026.57/- and the same was Rs.21,10,312.98/- at the end of the check period and thus, disproportionate income/assets of the petitioners were stated to be to the tune of Rs.2,82,45,753.41/-. The petitioners had applied for the concession of regular bail before the Special Court, Ferozepur, which was rejected vide orders dated 13.10.2023 and 25.10.2023 and it is thereafter that the present petitions have been filed by the petitioners.

ARGUMENTS ON BEHALF OF THE PETITIONERS:-

3. Learned Senior Counsel for the petitioner-Satkar Kaur Gehri and learned counsel appearing on behalf of the petitioner-Jasmail Singh have submitted that both the petitioners were arrested on 18.09.2023 and the investigation, in the present case, is complete and challan had been prepared on 14.11.2023 and has been presented in the Court and there are 48 prosecution witnesses, out of which, none have been examined as yet and thus, the conclusion of trial is likely to take time. It is further jointly submitted that the entire case is based on documentary evidence and the said documents are already in the custody of the Investigating Agency and

most of the witnesses are official witnesses and thus, no useful purpose would be served by keeping the petitioners in custody. It is further submitted that the petitioners have duly cooperated with the inquiry which was initiated by the Vigilance Department and the petitioners had repeatedly appeared before the Vigilance Bureau as and when they were called and also supplied the documents which were sought from them and had thus, fully cooperated during the course of inquiry. It is also submitted that the police remand of the petitioners is also complete and now, the petitioners are in judicial custody. It is contended that there is no other case against both the petitioners and the petitioners have clean antecedents and the petitioners have roots in the society inasmuch as the petitioner-Satkar Kaur Gehri was elected as MLA from the Ferozepur Vidhan Sabha Constituency from 2017 to 2022 and thereafter had joined Bhartiya Janta Party (BJP) in the year 2022 and currently has been elected as Vice President, Kisan Morcha, Punjab and the petitioner-Jasmail Singh is holding post of Scheduled Caste Zila Pardhan, Punjab. It is further contended that the petitioners have three children, out of whom, two are sons and one is a daughter and one of the sons is 12 years old and is a minor and needs the care of the petitioners and the daughter of the petitioners is suffering from Tuberculosis and has taken treatment from Max Super Speciality Hospital, Mohali, Punjab and the medical record regarding the same has been annexed as Annexure P-4 in CRM-M-56328-2023. It is further contended that the petitioner-Satkar Kaur Gehri is not keeping good health and is suffering from high blood sugar and cholesterol and is also suffering from Mild Hepatosplenomegaly, right ovarian cyst and inflammation for which she needs proper nutrition for her to be in a state of well-being. Reference in this regard has been made to medical record (Annexure P-2 in CRM-M-56328-2023). It is also pointed out that the said petitioner contracted COVID-19 and is suffering from breathing problems.

4. It is argued that the present FIR has been registered on account of political vendetta as the petitioners are opposed to the ruling party in the state of Punjab and there is a delay of more than one year in registering the FIR inasmuch as the petitioner-Satkar Kaur Gehri had last held office in March, 2022 whereas the present FIR has been registered on 18.09.2023 and the said delay itself casts a shadow of doubt on the veracity of the allegations. It is argued that the arrest of the petitioners was illegal and contrary to Section 41 Cr.P.C. as well as the decision of the Hon'ble Supreme Court in case titled as ***"D.K. Basu v State of West Bengal"*** reported as ***1997 1 SCC 416***.

5. It has been submitted on behalf of the petitioners that there are several entries with respect to the income earned by the petitioners which have not been taken into consideration by the prosecution in spite of the fact that there are documents including the bank statements etc. in support of the said entries and has submitted that the benefit of the said income should be given to the petitioners and in case the said benefit is given, then an amount of Rs.1,43,75,255/- will be required to be added in the income of the petitioners. Similarly, it has been submitted on behalf of the petitioners that there are several entries of expenditure which have been wrongly taken as expenditure incurred by the petitioners or wrong figures with respect to said expenditure have been taken into consideration by the prosecution agency

and a total amount of Rs.1,10,58,258/- deserves to be deducted on account of the said extra expenditure.

6. Learned Senior Counsel for the petitioner-Satkar Kaur Gehri had filed a detailed income and expenditure chart which was taken on record as Mark 'X'. It is submitted that as per the said Mark 'X', total amount of Rs.2,54,33,513/- stands explained. Learned counsel for the petitioner-Jasmail Singh has also relied upon the said chart. It is further submitted that since both the petitioners are in custody and there are three children in the house and the record is very voluminous, thus, the petitioners could not place on record the entire material to explain the balance amount of alleged disproportionate income/expenditure and the same would be done during the course of the trial. Specific reference has been made on behalf of both the petitioners to the said income chart and the expenditure chart.

ARGUMENTS ON BEHALF OF THE PETITIONERS (REGARDING THE INCOME CHART)

7. With respect to item no.1 in the income chart, it is argued on behalf of the petitioners that the petitioner-Satkar Kaur Gehri has received a total salary and allowances from the Punjab Government which amounts to Rs.82,43,706/- and has referred to the bank statement (Annexure P-20) (at page 142) for the same. Two entries dated 01.02.2018 for an amount of Rs.17,340/- and Rs.38,250/- and two entries dated 10.05.2018 for an amount of Rs.21,000/- and for an amount of Rs.55,110/- have been highlighted to show that even the allowances, were admissible to the petitioner-Satkar Kaur and have been credited to the bank account of the

said petitioner, thus, the total amount which was available to the petitioners for spending was Rs.82,43,706/- whereas in the challan, the total amount of salary has been taken to be Rs.49,66,909/- and the allowances, which have also been paid to the petitioner Satkar Kaur, have not been taken into consideration.

8. With respect to entry No.2 in the income chart, it has been stated that the amount received as interest lying in A/c No.36721601473, Branch SBI, Civil Secretariat, Chandigarh, is Rs.1,70,290/-, but however as per the challan, amount of Rs.1,50,070/- has been taken into consideration, thus, there is a variation of an amount of Rs.20,220/- and for the said purpose, reliance has been placed upon bank statement (Annexure P-20).

9. With respect to entry No.3 in the income chart, it has been submitted that the total amount received from the bank under the head 'Home Loan' is Rs.38,80,639/- and the said amount reflects in the bank statement (Annexure P-27), whereas, the amount mentioned in the challan is Rs.38,50,000/-, thus, there is a difference of Rs.30,639/-, which has not been credited by the State.

10. With respect to entry No.4 in the income chart, it has been submitted on behalf of the petitioners that an amount of Rs.4,76,589/- which has been received by the petitioner-Satkar Kaur as election fund on 25.01.2017 before the check period, which was credited in the account of HDFC Bank, has not been taken into consideration and for the said purpose reference has been made to Annexure P-28.

11. With respect to entry No.6 in the income chart, it has been submitted that the total amount of loan for the purchase of Mahindra

Scorpio Car from HDFC Bank A/c No.8499510 was Rs.15,36,761/- and only a part of the said amount has been taken into consideration by the State and there is a difference to the extent of Rs.3,11,661/-, which amount is required to be credited in the income of the petitioners.

12. With respect to entry No.7 in the income chart, it has been submitted that an amount of Rs.9,92,250/- was received by the petitioners as agricultural income regarding which, no credit has been given in the challan. In support of the said entry, reference has been made to J-Form, which has been annexed as Annexure P-30 and also to two entries in the bank statement of account of the petitioners bearing SBI A/c No. 00000036721601473 i.e., entries dated 26.11.2011 (page 194 of the paper-book) of Rs.2,57,250/- and Rs.7,35,000/-, totalling Rs.9,92,250/-.

13. With respect to entry No.9 in the income chart, it has been submitted that an amount of Rs.4,30,000/- was paid in cash as full and final settlement of the compromise, which was arrived at in the civil proceedings and the payment of the said amount is reflected in the decree dated 10.07.2021, passed by the Additional Civil Judge (Senior Division), Presiding Officer, Lok Adalat, Jaitu, which has been annexed as Annexure P-32. It is further submitted that the share of the petitioner-Satkar Kaur in the said settlement as per understanding of the parties was Rs.3,60,000/- for which no credit has been given by the prosecution.

14. With respect to entry No.10 in the income chart, it has been submitted that the total interest received for the amount lying in the account of HDFC Ferozepur, was Rs.50,066/-, whereas, a credit of only Rs.42,780/- has been given in the challan and thus, there is a difference of Rs.7,286/-

and for the said purpose, reference has been made to Annexure P-33.

15. With respect to entry No.11 in the income chart, it has been pointed out that the amount received by the petitioners as loan for the purchase of Toyota Innova Crysta from HDFC Bank was Rs.24,19,500/-, whereas, the prosecution has given a credit of Rs.23,92,539/- and thus, there is a variation of Rs.26,961/-, which amount deserves to be credited in the total income of the petitioners.

16. With respect to entry No.12 in the Income Chart, it has been submitted that the agricultural income received by the petitioner-Jasmail Singh during the check period was Rs.59,73,219/- whereas credit of only Rs.26,55,200/- has been given to the petitioner-Jasmail Singh. It is submitted that there is a difference of Rs.33,18,019/- for which credit should be given to the petitioners and in support of the said arguments, reference has been made to copies of Form-J which have been annexed as Annexure P-36 and also to the bank statement of the account of the petitioner Jasmail Singh (P-33 of CRM-53634-2023) and regarding the same, specific reference has been made to the entries dated 22.05.2019 (page 70 of said CRM-53634-2023), 08.11.2019 (page 74 of said CRM-53634-2023), 30.10.2020, 07.11.2020 (page 78 of said CRM-53634-2023), 29.12.2020, 15.01.2021 (page 79 of said CRM-53634-2023), 15.11.2021, 17.11.2021 (page 80 of said CRM-53634-2023) and 22.11.2021 (page 81 of CRM-53634-2023).

17. With respect to entry no.15 in the income chart, it has been submitted that the petitioners had sold the car through Shan e Punjab to one Jaspreet Singh son of Gurinder Singh for an amount of Rs.22,75,000/-

which amount has not been credited by the prosecution and thus, the petitioners deserve the credit of Rs.22,75,000/- in their total income. Learned counsel for the petitioners have referred to page 127 of the challan to show that the sale letter dated 20.05.2020 in favour of the said Jaspreet Singh with respect to the abovesaid car has been annexed along with the said challan. Reference has also been made to several entries in the bank statement annexed as Annexure P-33 moreso, the entries dated 23.01.2020 (page 75 of the CRM-53634-2023) and 20.05.2020 and 10.06.2020 (page 76 of CRM-53634-2023) to show that various amounts have been received from the said Jaspreet Singh to whom the car Innova Crysta, 2018 model, had been sold in the year 2020.

18. With respect to entry No.16 in the income chart, it has been submitted that petitioner Jasmail Singh had availed unsecured loan from SAAB Commission Agent to the extent of Rs.16 lacs which has not been taken into consideration by the prosecution and thus, an amount of Rs.16 lacs is required to be credited to the income of the petitioners. In support of the said arguments, reliance has been placed upon the bank statement (Annexure P-33) more so, two entries dated 05.03.2018 for an amount of Rs.6 lacs and Rs.9 lacs (page 61 of CRM-53634-2023) and 08.03.2018 for an amount of Rs.1 lac (page 62 of CRM-53634-2023).

19. With respect to entry No.17 in the income chart, it has been submitted that the petitioner-Jasmail Singh had also availed a minor loan from the bank to buy electronic products and the total amount of the same was Rs.83,333/- and the said petitioner is in possession of documents to prove the same but the same are not being annexed as the same are very

voluminous. It is submitted that an amount of Rs.83,333/- also deserves to be added to the income of the petitioners.

20. With respect to entry No.18, it has been submitted that car of make BMW X-1 was sold by the petitioners to Simarjeet Kaur wife of Joginder Singh on 18.11.2020 for Rs. 8 lacs and regarding the same, a sale receipt dated 18.11.2020 (Annexure P-37 page 129 of CRM-53634-2023) was issued. It is submitted that the benefit of Rs.8 lacs due on account of the said sale has not been given by the prosecution to the petitioners.

21. With respect to entry No.19, it has been submitted that the petitioners at the start of the check period had cash in hand amounting to Rs.90,000/- which was not taken into consideration by the prosecution although, the factum of cash in hand was specifically mentioned in the affidavit dated 17.01.2017 (Annexure P-19 at page 128 of the paperbook) filed by the petitioner-Satkar Kaur Gehri for contesting in the elections and the said affidavit is a part of the Government record.

ARGUMENTS ON BEHALF OF THE PETITIONERS (REGARDING THE EXPENDITURE CHART)

22. With respect to item No.1 in the expenditure chart, it has been pointed out that an amount of Rs.15,72,500/- had been spent on the renovation work which was carried out on the property situated at Village Alewala, Krishna Enclave whereas the amount in the challan for the construction of the house has been stated to be Rs.53,21,572/- and thus, an additional expenditure of Rs.37,49,072/- has to be deducted from the total expenditure. Reference in this regard has been made to Annexure P-39 (Page 138 of CRM-53634-2023) to show that as per the Architect i.e.,

Engineer Gurpreet Singh Sandhu, it has been certified that an amount of Rs.15,72,500/- was spent. It is submitted that the report relied upon in the challan is dated 10.05.2023 which is subsequent to the check period as the last date for the check period was 31.03.2022.

23. With respect to entry no.2 and 6 in the expenditure column, it has been submitted that the amount assessed by the technical team has been overevaluated inasmuch as the house in village Fatehgarh, Tehsil Guru Sahib, District Ferozepur, had already been constructed and no major construction has been done and only a minor renovation has been carried out on which an amount of Rs.15 lacs was spent and even with respect to the cattle shed, the same was built by using normal material and an amount of Rs.1,75,000/- was spent on the said renovation/construction and the said two figures are brought forth from the copy of the report of the architect which has been annexed as Annexue P-40 (at pages 139 and 141 of CRM-53634-2023). It is submitted that the figures of Rs.47,02,980/- and Rs.3,86,950/- which have been taken into consideration in the challan on account of construction of the house and the cattle shed are incorrect and the amount of Rs.32,02,980/- and Rs.2,11,950/- deserve to be reduced from the expenditure column. It is further submitted that the report relied upon by the State is dated 10.05.2023 which is after the check period.

24. With respect to entry no.3 in the expenditure column, it has been submitted that the car BMW X-I which was a used vehicle and was a 2012 model, had been purchased for an amount of Rs.8,50,000/- for which loan facility was availed for an amount of Rs.6,97,009/- and thus, only expenditure of an amount of Rs.1,52,991/- was incurred from the pockets of

the petitioners whereas in the challan, a double entry has been made with respect to the said car and the total amount spent on the said car has been shown as Rs.17,17,241/- and thus, an amount of Rs.15,64,250/- has been shown as excess in the expenditure column by the prosecution.

25. With respect to entry no.4 in the expenditure column, it has been stated that the house bought in Sunny Enclave had already been constructed and no new major construction was done and only renovation to the extent of Rs.3,19,900/- was carried out which fact is apparent from the report of Architect (Annexure P-38) whereas the assessment by the authorities on the basis of report dated 10.05.2023 which is subsequent to the check period to the extent of Rs.8,28,565/- on account of construction raised is incorrect and in excess and an amount of Rs.5,08,665/- deserves to be deducted on the said account also.

26. With respect to entry no.5 i.e, house no.27 Phase 3, Krishna Colony, Tehsil and District Ferozepur, it is submitted that only an amount of Rs.4,66,500/- was spent and in support of the same, reference has been made to the report of the Architect (Annexure P-41) and on the said account also, excess amount of Rs.2,87,000/- has been shown as expenditure incurred by the petitioners by the prosecution which also deserves to be deducted.

27. With respect to entry nos.7, 8, 9 and 10, it has been argued on behalf of the petitioners that as per the challan an amount of Rs.37,25,182/- has been presumed by the State to be the amount spent on household needs being 3/4th share of the salary of the petitioner-Satkar Kaur Gehri. It is submitted that a perusal of the challan (at page 38 of Annexure P-2 in

CRM-M-63520-2023) would show that initially 1/3rd share of the salary amounting to Rs.16,55,636.33/- was presumed to be the expense on household needs and the same has been increased to 3/4th amounting to Rs.37,25,182/- on surmises and conjectures without there being any basis for the same. It is argued that in the criminal proceedings, no presumption with respect to the expenditure can be made moreso when the petitioner Satkar Kaur Gehri was an MLA and a large number of facilities were available to the petitioner Satkar Kaur Gehri and her family free of costs. It is further argued that specific entries showing expenditure incurred by the petitioners has already been taken into consideration by the prosecution while calculating the total expenditure incurred by the petitioners and thus, the said entries are without any basis. It has been specifically pointed out that the amount as mentioned at entry no.8, 9, and 10 are apparently double entries and thus, the benefit of amount of Rs.1,25,000/-, Rs.1,00,000/- and Rs.2,47,000/- deserves to be straightway reduced from the expenditure account.

28. With respect to entry No.11, it is submitted that the loan amount of Rs.5,00,000/- taken by the petitioners from Hardeep Singh on 03.05.2019, which is within the check period for the purpose of purchase of a residential house, has not been taken into consideration by the State inspite of the fact that the said Hardeep Singh had given a specific statement to the vigilance enquiry during the course of the enquiry and the said statement is also part of the challan and the said Hardeep Singh has stated that he had withdrawn Rs.5,00,000/- from State Bank of India A/c No.34836772066 and had paid the same to the petitioners. Further reference

has been made to Annexure P-9 of CRM-M-56328-2023 with respect to the same.

29. With respect to entry No.12 of the expenditure account, it has been submitted on behalf of the petitioners that an amount of Rs.5,00,000/-, which was borrowed by the petitioner from Gurmej Singh on 05.12.2017 and which is reflected in the statement of accounts of M/s Gurmej Contractors and is also reflected at pages 44 to 47 of the challan, has not been taken into consideration by the State and thus, an amount of Rs.5,00,000/- is to be excluded from the expenditure of the petitioner in purchasing land measuring 16 kanals in village Fatehgarh, Tehsil Guru Harsahai, District Ferozepur.

30. With respect to entries No.13, 14 and 15 in the expenditure account, it has been submitted on behalf of the petitioners that there are calculation errors on behalf of the State and an excess amount of Rs.52,000/-, Rs.7209 and Rs.2996/-, under the said entries, have been wrongly added in the expenditure which deserves to be deducted.

31. Learned counsel for the petitioners have referred to a judgment of the Hon'ble Supreme Court dated 31.05.2022 passed in ***Special Leave to Appeal no.5273/2022*** titled as ***"State of Chhattisgarh vs. Gurjinder Pal Singh"*** in which the State had filed SLP against an order of grant of regular bail by the High Court in a case of disproportionate assets registered under the Prevention of Corruption Act, 1988. The High Court while granting bail had observed that the said petition was nothing but an unwarranted exercise on behalf of the petitioner-State (therein) and that in a case of disproportionate assets, most of the evidence is based on documents and

therefore, there was no question of tampering with such evidence in spite of the accused therein being a senior police official and accordingly, the said SLP filed by the State was dismissed.

32. Learned counsel for the petitioners have submitted that it is a matter of settled law that in case the difference between the known source of income and the expenditure is upto 10%, then the person cannot be held guilty for having disproportionate income and for the said proposition, reliance has been placed upon a judgment of the Hon'ble Supreme Court of India in ***Krishnanand Agnihotri vs. The State of Madhya Pradesh*** reported as (***1977)1 SCC 816.*** Relevant portion of ***Krishnanand Agnihotri's*** case (supra) which has been highlighted on behalf of the petitioners is reproduced hereinbelow:-

> *"33. It will, therefore, be seen that as against an aggregate surplus income of Rs. 44,383.59 which was available to the appellant during the period in question, the appellant possessed total assets worth Rs. 55,732.25. The assets possessed by the appellant were thus in excess of the surplus income available to him.* ***but since the excess is comparatively small - it is less than ten per cent of the total income of Rs. 1,27,715.43 - we do not think it would be right to hold that the assets found in the possession of the appellant were disproportionate to his known sources of income so as to justify the raising of the presumption under Sub-section (3) of Section 5****. We are of the view that, on the facts of the present case the High Court as well as the Special Judge were in error in raising the presumption contained in Sub-section (3) of Section 5 and convicting the appellant on the basis of such presumption."*

33. On the basis of the said submissions, learned counsel for the petitioners have jointly prayed that the present petitions for grant of regular bail be allowed and that the petitioners be released on regular bail.

ARGUMENTS ON BEHALF OF THE STATE (REGARDING THE INCOME CHART)

34. Learned State counsel has submitted that the investigating agency had carried out detailed investigation and after carrying out the same, a detailed report under Section 173 (2) Cr.P.C. had been submitted before the trial Court and as per the same, for the check period from 01.04.2017 to 31.03.2022, an amount of Rs.2,82,45,753.41/- was found to be in excess of the income of the petitioners earned from their known sources and was thus, disproportionate.

35. With respect to entry no.1 in the income chart, learned State counsel has submitted that the salary which has been credited into the account of the petitioner to the tune of Rs.49,66,909/- was, as per the statement provided by the Punjab Vidhan Sabha and the amount of Rs.32,76,797/- which, though was credited into the account of the petitioner as allowances, cannot be calculated under the head of salary of the petitioner. Learned State counsel has further submitted that the amount credited into the account of the petitioners as allowances would be spent for the purpose for which the allowance has been given and thus, the same has not been taken into consideration.

36. With respect to entry No.2 in the income chart, learned State counsel has not disputed the difference in the amount as the same is supported by entries in the bank account.

37. Learned State counsel has not been able to dispute entry No.3 in the income chart.

38. With respect to entry No.4 in the income chart, learned State counsel has submitted that the credit of an amount of Rs.4,76,589/- can be given under the said entry as the said amount is the amount which was the balance left after excluding the expenditure amount spent in the elections. It is further submitted that inadvertently the benefit of Rs.4,76,589/- has not been given and the same can be credited to the account of the petitioners.

39. With respect to entry No.6 in the income chart, the same has not been disputed by learned State counsel.

40. With respect to entry No.7 in the income chart, learned State counsel has submitted that the said details of the agricultural income have not been provided by the petitioners to the investigating agency, but however, the entry highlighted in the bank statement (at page 194 of CRM-M-56328-2023) could not be disputed.

41. With respect to entry No.9 in the income chart, learned State counsel has submitted that at best, the benefit of Rs.61,428/- can be given, inasmuch as, the amount of Rs.4,30,000/-, which has been received in the decree was to be divided amongst the seven LRs and the petitioner-Satkar Kaur Gehri was one of the seven Lrs.

42. Learned State counsel has not disputed the claim raised by the petitioners in entry No.10 and 11 of the income chart.

43. With respect to entry No.12, learned State Counsel has submitted that when the petitioners were called for enquiry, they gave proof with respect to the agricultural income of petitioner-Jasmail Singh to the

extent of Rs.26,55,200/- and with respect to the balance amount, proof was not given, although, bank entries as shown by the learned counsel for the petitioners could not be disputed.

44. Learned State counsel has not been able to dispute entry no.15 in the income chart as the same are supported by entries in the bank statement and also the sale documents which are a part of the challan.

45. With respect to entry No.16, learned State Counsel has submitted that the petitioners had informed the respondents only with respect to the unsecured loan to the extent of Rs.1 lac and the other bank entries were not brought to the notice of the prosecution. The highlighted bank entries however, have not been disputed.

46. With respect to entry No.17, learned State Counsel has pointed out that there is no record with respect to the same and thus, the benefit of the said entry cannot be given to the petitioners.

47. With respect to entry No.18, learned State Counsel has pointed out that a perusal of Annexure P-37 in CRM-53634-2023 would show that no amount has been mentioned in the same, although the sale of the car BMW X1 is not disputed.

48. With respect to entry No.19, learned State Counsel has pointed out that the said affidavit is dated 17.01.2017 whereas the check period begins from 01.04.2017 and thus, the said amount has not been taken into consideration.

ARGUMENTS ON BEHALF OF THE STATE (REGARDING THE EXPENDITURE CHART)

49. With respect to point No.1 in the expenditure chart, learned

State Counsel has submitted that as per their report dated 10.05.2023, the amount spent on the property at Village Alewala, Krishna Enclave is Rs.53,21,571/-.

50. Learned State counsel with respect to entry no.2 and 6 in the expenditure column has relied upon the report dated 10.05.2023 to show that the amounts mentioned in the challan are as per the said report.

51. Learned State counsel could not dispute entry no.3 in the expenditure column.

52. Learned State counsel has submitted that with respect to entry no.4, expenditure of Rs.8,28,565/- has been made on the basis of report dated 10.05.2023.

53. With respect to entry no.5, learned State counsel has submitted that the expenditure made on the construction of House no.27, Phase III, Krishna Colony, Tehsil and District Ferozepur of Rs.7,53,500/- has been assessed on the basis of the assessment report dated 10.05.2023.

54. With respect to entries no.7 to 10 of the expenditure chart, it has been submitted that expenditure amount of Rs.4,72,046/- incurred by the petitioners as mentioned under entry no.8, 9 and 10 is not disputed.

55. Learned State counsel has submitted that as far as entry No.11 amounting to Rs.5,00,000/- is concerned, the same is not being disputed.

56. Learned State counsel has submitted that on the basis of documents produced as well as the challan, entry No.12 in favour of the petitioners from M/s Gurmej Contractors for an amount of Rs.5,00,000/- has not been disputed, although the bona-fide of the said transaction is disputed.

57. Learned State counsel has not been able to dispute the said

entries No.13, 14 and 15.

58. It is however, argued by the learned State counsel that the entries are not being disputed on account of the fact that the same are either reflected in the bank statement or in other documents but the said admission of the entries should not be construed as an admission of the said transactions being bonafide as it is the stand of the State that these transactions are not bonafide. On the basis of said arguments, learned State counsel has opposed

the regular bail petitions filed by both the petitioners.

FINDINGS

59. This Court has heard learned counsel for the parties and has gone through the paper book.

60. It is not in dispute that both the petitioners were arrested on 18.09.2023 and the investigation is complete and the challan had been prepared on 14.11.2023 and has also been presented before the trial Court and there are 48 prosecution witnesses, out of which, none have been examined and thus, conclusion of the trial is likely to take time and the petitioners are not involved in any other case. It is also not in dispute that the police custody of the petitioners is over and presently both the petitioners are in judicial custody. It is the case of the petitioners that the vigilance enquiry continued for a period of about 7 months and the petitioners had fully cooperated with the said enquiry and had gone to the office of the Vigilance Bureau on every occasion they were called and even submitted the documents which were in their possession and which were sought by the Vigilance Bureau. It is further the case of the petitioners that

the petitioner-Satkar Kaur Gehri is suffering from high blood sugar, Cholesterol, Mild Hepatosplenomegaly and also suffered from Covid-19 infection and even has breathing problems. The petitioners have three children, two sons aged 12 years and 20 years and one daughter aged 21 years. It is also the case of the petitioners that their daughter is suffering from tuberculosis regarding which medical record has been produced and the children need to be looked after by the petitioners. The petitioner-Satkar Kaur Gehri had held the office of MLA from April 2017 to March 2022 and the FIR has been registered after a delay of more than 1 year after her having demitted the office.

61. It is the case of the prosecution in the report under Section 173 (2) Cr.P.C. that the total expenditure incurred by the petitioners for the check period from 01.04.2017 to 31.03.2022 was Rs.4,33,78,427/- whereas the income of the petitioners during the said period was only Rs.1,65,37,960/-. It is further the case of the prosecution in the said report that the value of the properties owned by the petitioners at the beginning of check period was Rs.7,05,026.57/- whereas the value of the properties which the petitioners possessed at the end of check period was Rs.21,10,312.98/- and thus, an amount of Rs.2,82,45,753.41/- was found to be unexplained by the investigating agency. On behalf of the petitioners, a detailed chart (Mark X) had been produced on record and a copy of the same had been given to learned State counsel, and from the said chart it has been highlighted that there are several entries with respect to the income earned by the petitioners which are supported by documents including bank statements etc. but the same have not been considered by the investigating

agency. Additionally, in the said chart (Mark X), it has been highlighted that several items of expenditure have been wrongly included as expenditure incurred by the petitioners and said amount deserves to be deducted. The relevant portion of the said chart is reproduced hereinbelow:-

INCOME							
Sr. no.	**Name of Accused**	**Description**	**Amount as per Challan**	**Amount as per Petitioner**	**Remarks**	**Amount of Variation**	**Annexures**
1	Satkar Kaur (Present petitioner)	Salary and Allowances of the applicant is not calculated in the income of the applicant, which forms a major part of the income of the applicant. That the total credited amount from the punjan Govt. comes out to be Rs. 82,43,706/-	49,66,909	82,43,706	The actual amount that has been received in the Bank Account of the Petitioner during the Check period from Punjab Govt. Treasury on account of Salary and Allowances as MLA has been collated from the Bank Statement. This includes both the taxable as well as tax-free allowances received in the Bank a/c. Whereas the Investigating Agency has only presented the Salary figure without matching the same with the Bank a/c statement duly made available by the petitioner and the respective Bank. The allowances received by the Petitioner as MLA are not taxable and hence, not shown in the Income Tax Returns, However, they are clearly reflected in the Bank Account of the Petitioner.	32,76,797	Copy of the Bank Account statement of the present petitioner is already annexed as **Annexure P-20 at page 138-214 in the main petition.**
2	Satkar Kaur (Present petitioner)	During the check period the amount received as interest lying in A/c no. 36721601473 Branch SBI, CIVIL Secretariat Chandigarh	1,50,070	1,70,290	That during the check period interest received was higher as per the bank statement	20,220	Copy of the Bank Account statement of the present petitioner is already annexed as **Annexure P-20 at page 138-214 in the main petition.**
3	Satkar Kaur (Present petitioner)	During the check period, amount of money received from home loan	38,50,000	38,80,639	That the during the check period interest received was higher as per the bank statement	30,639	Copy of the Bank Account statement relating to the home loan annexed as **Annexure P-27 at page 12-19 in CRM no. 53634 of 2023**
4	Satkar Kaur (Present petitioner)	Election fund received on 25.01.2017 before the check period which is credited in the HDFC bank a/c	-	4,76,589	That the vigilance board did not attach the account statement of the petitioner's HDFC bank a/c. That the election fund was	4,76,589	Copy of the Bank Account statement of HDFC Bank A/c

					credited in this account before the check period started.		no. 50100155 486306 is annexed as **Annexure P-28 at page 20-21 in CRM no. 53634 of 2023**
5	Satkar Kaur (Present petitioner)	Amount of money received from loan for purchase of BMW X1 from HDFC bank, Branch Ferozepur in a/c no. 37761701337	6,97,099	6,97,099	That the loan was in the name of Satkar Kaur, the present petitioner, but the vigilance board showed the loan in the Income of Jasmail Singh	-	Copy of the Bank Account statement of the loan is annexed as **Annexure P-29 at page 22-25 in CRM no. 53634 of 2023**
6	Satkar Kaur (Present petitioner)	During the check period, the amount received for the purchase of Mahindra Scorpio S11 from HDFC bank a/c no. 8499510	12,25,100	15,36,761	That the amount received for the purchase of the vehicle is higher as reflected in the a/c statement of HDFC bank a/c and in the challan but vigilance authority stated less amount than the original.	3,11,661	Copy of the Loan statement is attached with challan **at page 341**
7	Satkar Kaur (Present petitioner)	During check period, the petitioner received agricultural income which is not attached by the vigilance board in the challan	-	9,92,250	That the present petitioner generated the amount through her agricultural land during the check period	9,92,250	Copy of the J-form is attached for the ready reference of the court as **annexure P-30 at page 26-29 in CRM no. 53634 of 2023**
8	Satkar Kaur (Present petitioner)	During check period, that the pension of the in-laws was also forming a part of the income. That the pension was mostly used for paying education related bills of the children and others minor expenses	-	7,06,500	That the vigilance board did not bother to attach the additional income which is reflected in the pension a/c of the in-laws	7,06,500	Copy of the account statement is attached for the ready reference of the court as **annexure P-31 at page 30-38 in CRM no. 53634 of 2023**
9	Satkar Kaur (Present petitioner)	That an amount was paid in cash by the family members of the present petitioner after a settlement decree which is passed by the Hon'ble Additional Civil Judge, Jaitu, on 05/10/2015	-	3,60,000	That through a decree, the present petitioner received the amount in cash from Jagdev Singh who is the brother of the present petitioner and other family members	3,60,000	Copy of the Decree is attached for the ready reference of the court as **annexure P-32 at page no 39-51 in CRM no. 53634 of 2023 (relevant extract is at page 42)**
10	Co-accused Jasmail Singh	During the check period, interest received from amount	42,780	50,066	That the amount received as interest is higher as per the bank	7,286	Copy of the A/c statement

		lying in a/c no. 501001887740853, branch HDFC Ferozepur			a/c statement		is attached for the ready reference of the court as **annexure P-33 at page 52-88 in CRM no. 53634 of 2023**
11	Co-accused Jasmail Singh	During the check period, the amount received for the purchase of Toyota Innova Crysta from HDFC bank a/c no. 58160752 and a/c no. 45085314	23,92,539	24,19,500	That the amount of the loan credited in the account is a little higher which is evident from the account statement	26,961	Copy of both the A/c statement is attached for the ready reference of the court as **annexure P-34 at page no. 89-94 and P-35 at page no. 95-98 in CRM no. 53634 of 2023**
12	Co-accused Jasmail Singh	Agricultural income received during 2017-2022 as per the J-Forms submitted by the co-accused	26,55,200	59,73,219	That the vigilance board did not account for the exact income generated by the co-accused which can be easily and readily available with the Market Board	33,18,019	Copy of the J-form is attached for the ready reference of the court as **annexure P-36 at page no 99-128 in CRM no. 53634 of 2023**
13	Co-accused Jasmail Singh	During the check period amount received in A/c no. 501001887740853 for sale of Mahindra Scorpio S11	2,25,000	2,25,000	That this entry is reflected in the account statement of the a/c statement. This is a advance payment by the buyer of the vehicle and paid through bank cheque.	-	Relevant documents are already attached in the **Challan at page no. 126 and at page no. 81 in annexure P-33 in CRM no. 53634 of 2023**
14	Co-accused Jasmail Singh	During the check period income received from sale of Arms and Ammunition	15,000	15,000	That this entry is reflected in the account statement of the a/c statement.	-	The supporting document is already forms a part of the **challan at page no. 426**
15	Co-accused Jasmail Singh	During the check period the co-accused sold the car to Shan-e-Punjab and received an amount which is not included in the challan	-	22,75,000	That the vigilance agency did not attach the amount which was received from the sale of the vehicle and reflected in the account statement	22,75,000	Copy of the account statement is annexed as **Annexure P-33 at page 52-88 in CRM no. 53634 of 2023**
16	Co-accused Jasmail	That the co-accused also availed an	-	16,00,000	Rs 16,00,000 from taken as unsecured	16,00,000	Copy of account

	Singh	unsecured loan from SAAB Commission Agent in the due course of the check period.			loan from SAAB Commission Agent, which is evident from the account statement which forms the part of the challan		statement as **annexure P-33 at page 52-88 in CRM no. 53634 of 2023**
17	Co-accused Jasmail Singh	That the co-accused also availed a loan from the bank to buy electronic products in the due course of the check period.	-	83,333	The amount of Rs 83,333 was credited in the account of Jasmail Singh from Bajaj Finance Ltd for purchasing a TV which is evident from the account statement.	83,333	Copy of account statement as **annexure P-33 at page 52-88 in CRM no. 53634 of 2023**
18	Satkar Kaur (Present petitioner)	During the check period, petitioner received an amount of 8 Lacs as payment for BMW X1	-	8,00,000	That the vigilance board added the amount of 8,50,000 in the expenditure of the present petitioner but in the same check period, the present petitioner also sold the said vehicle and received the stated amount	8,00,000	Copy of the sale receipt is annexed as **annexure P-37 at page 129 in CRM no. 53634 of 2023**
19	Both the accused	Cash in hand declared as per both the accused	-	90,000	That the vigilance board did not take in account the cash which is readily available with the present petitioner at the time of filing the election affidavit and the cash with the co-accused	90,000	Copy of the election affidavit is already annexed as **annexure P-19 at page 128-137 in main petition**
					Total	**1,43,75,255/-**	

EXPENDITURE						
Sr. no.	**Description**	**Amount as per Challan**	**Amount as per Petitioner**	**Remarks**	**Amount of Variation**	**Annexures**
1	Petitioner purchased the house at Village Alewala, Krishna Enclave, phase-3. No construction was done on the house. Some minor renovation work was carried out.	53,21,572	15,72,500	No New construction has been done on the house. Some renovation work was carried out. The Report of the Technical team is Dated 10.05.2023, which is subsequent to the check period.	37,49,072	Report of the valuer/Er. Gurpreet Singh is annexed as **P-39 at Page 136-138 in CRM no. 53634 of 2023**.
2	Petitioner purchased an old house in Village Fatehgarh, Tehsil Guru Harsahai, District Ferozepur measuring 1 Kanal 1 Marla. Thereafter, renovation and some construction was carried out.	47,02,980	15,00,000	Renovation was carried out and some minor work of the cattle shed has been done by the petitioner.	32,02,980	Report of the valuer/Er. Gurpreet Singh is annexed as **P-40 at Page 139-141 in CRM no. 53634 of 2023**.
3	That Satkar Kaur purchased a vehicle i.e., BMW X1, 2012 model the expense of which is counted twice in challan by the state	17,17,241	1,52,901	That Satkar Kaur purchased a used vehicle i.e., BMW X1, 2012 model for an amount of Rs. 8,50,000. For which a loan facility was availed for an amount of Rs. 6,97,099. whereas, she sold the said vehicle on 18.11.2020 to Simranjeet Kaur W/o Joginder Singh for an amount of Rs. 8,00,000. Thus, only Rs. 1,52,901 was incurred by petitioner whereas in the	15,64,340	Copy of the sale affidavit is annexed as **P-37 at page 129 in CRM no. 53634 of 2023**.

				challan, a double entry has been made with respect to the same car and the total amount on the said car has been stated as Rs. 17,17,241 in the challan.		
4	Applicant bought a pre-constructed liveable house situated at Sector-125, Sunny Enclave, SAS Nagar.	8,28,565	3,19,900	No new construction has been done on the house. Some minor renovation work was carried out.	5,08,665	Report of the valuer/Er. Gurpreet Singh is annexed as **P-38 at Page 133-135 in CRM no. 53634 of 2023.**
5	The applicant constructed four walls and a roof (Small Hall) situated at #27, Phase 3, Krishna Colony (Enclave), Satiye wala, Tehsil & District Ferozepur.	7,53,500	4,66,500	The construction of 4 walls and a roof (Small Hall) was carried out at the said property and the amount assessed by the technical team-1 is over evaluated by Rs. 2,87,000.	2,87,000	Report of the valuer/Er. Gurpreet Singh is annexed as **P-41 at Page 142-144 in CRM no. 53634 of 2023.**
6	Applicant constructed a cattle shed which is built by using normal material.	3,86,950	1,75,000	It is part of the house situated in Village Fatehgarh, Tehsil Guru Harsahai, District Ferozepur and the report of the architect is attached which is also discussed at Sr. no. 2 in this Expenditure Chart.	2,11,950	Report of the valuer/Er. Gurpreet Singh is annexed as **P-40 at Page 139-141 in CRM no. 53634 of 2023.**
7	As per the allegations levelled in the challan, Petitioner (Satkar Kaur) spent the amount of Rs. 37,25,182 on her expenses from her salaried accout no. 00000036721601473 of SBI Bank, which according to the State is Non-Assesable.	37,25,182	37,25,182	That out of this amount of Rs. 37,25,182, the petitioner has paid:- Rs. 1,25,000 to PPCC on 01.02.2021 (Page-179 of the annexure P-20 in the main petition), - Petitioner gave Rs. 1,00,000 to ZEE Media on 30.08.2021 (Page-189 of Annexure P-20 in the main petition) - Petitioner paid Rs. 2,47,036 in Education fees (Annexure P-43 in CRM no. 53634 of 2023 at Page 149-150)	-	Copy of the school fee receipts is annexed as **Annexure P-43 at page 149-150 in CRM no. 53634 of 2023 and at page no. 480-481 in challan**
8	During the check period, the present petitioner gave fund to Punjab Pradesh Congress Committee from Salary a/c on 01.02.2021.	1,25,000	-	It is a double entry as discussed at Sr. No.7 and as reflected on Page 179 in Annexure P-20.	1,25,000	Copy of the bank statement is annexed as **Annexed as annexure P-20 at page 179 in main petition and also reflected in the Challan at Page no. 297**
9	During the check period, the present petitioner paid to Zee Media corporation ltd. From salary a/c on 30.08.2021.	1,00,000	-	It is a double entry as discussed at Sr. No.7 and also reflected on Page 189 in Annexure P-20	1,00,000	Copy of the bank statement Annexed as **Annexure P-20 at page 189 in main petition and also reflected in the Challan at Page no. 308.**

10	During check period, Satkar Kaur (present petitioner) spent amount on education of her children from salaried account	7,87,756	5,40,710	During the check period, petitioner paid a sum of Rs. 2,47,036 (annexure P-43 at page 149-150) from her salaried account as school fee which is already part of expenditure as mentioned in entry no. 7 above, therefore benefit of Rs. 2,47,036 should be given to the petitioner	2,47,046	Copy of the bank statement Annexed as **Annexure P-20 at page 189 in main petition and (annexure P-43 at page 149-150) in CRM no 53634 of 2023**
11	Acused Jasmail Singh purchased a residential house in Village Alewala, Krishna Enclave, Ferozepur, through Vasika no. 2019-20/116/1/771, Dated 22.05.2019.	15,15,600	10,15,600	The property was purchased for Rs.15,15,600 however a sum of Rs.5,00,000 was borrowed from Hardeep Singh on 03.05.2019, which is clearly reflected in the bank statements of Hardeep Singh As well as in the statement given by Hardeep Singh to vigilance bureau, which is reflected on page no. 35 to 39 of the challan.	5,00,000	The entries are reflected in **Annexure P-9 at page no. 66 in main petiton**. This is also part of **challan at Page no 35 to 39.**
12	Accused Satkar Kaur spent an amount of Rs.953370 for purchasing land measuring 16k in Vill Fatehgarh tehsil guruharsahai distt ferozepur vide vasika no.2066 dt.28/12/2017.	9,53,370	4,53,370	The property was purchased for Rs.9,53,370 however a sum of Rs.5,00,000 was borrowed from Gurmej Singh on 05.12.2017, which is clearly reflected in the statement of accounts from M/S Gurmej Contractors and tile Factories. As well as is reflected on page no. 44 to 47 of the challan.	5,00,000	The entries are reflected in **Annexure P-9 at page no. 66 in the main petiton**. This is also part of the **challan at Page no 44 to 47.**
13	During check period, both the accused purchased Electrical appliances.	5,57,500	5,05,500	There is difference in adding the amount as State has added 3 entries beyond the Check period which amounts to Rs. 52,000.	52,000	Copy of all the bills is **part of challan at Page 93-94** and **page 109-117** and it is not annexed here for the sake of brevity.
14	Both the accused spent on the purchase of Three 32 Bore Pistols, Two 315 Bore Rifles	3,48,959	3,41,750	There is minor difference in the calculations	7,209	Copy of all the bills is **part of challan at Page 93** and it is not annexed here for the sake of brevity.
15	During the check period, Satkar Kaur spent amount of Rs. 3,29,296 for returning the loan obtained from HDFC Bank, Branch Ferozepur regarding the purchase of Toyota Innova Crysta TX bearing RC no. PB-05-AH-0032 Through her Account no. 450085314	3,29,196	3,26,200	There is minor difference in the calculations	2,996	
				Total	**1,10,58,258/-**	

A perusal of the above reproduced chart would show that as per the case of the petitioners, the total income which has not been taken into consideration by the investigating agency, in spite of there being prima facie proof of the same having been earned, is Rs.1,43,75,255/- and the expenditure which has been taken into consideration in excess, is to the extent of Rs.1,10,58,258/- and on the basis of the said chart, it is submitted that an amount of Rs.2,54,33,513/- out of the alleged disputed amount of Rs.2,82,45,753/- stands explained. It is further the case of the petitioners that both the petitioners are in custody and the petitioners have three children, who are aged 12 years, 20 years and 21 years in the house and since the record is very voluminous, thus, in spite of best efforts, the children of the petitioners could not scrutinize the entire record and in case the concession of bail is granted to the petitioners, then the petitioners would be able to further supplement the documents during the course of trial to show that the entire amount of Rs.2,82,45,753.41/- stands explained. It would be relevant to note that as is apparent from the arguments raised on behalf of the petitioners and the State, which have been noticed hereinabove, entries under item no.2, 3, 4, 6, 7, 10, 11, 12, 15 and 16 in the income column could not be disputed by the State. Even entry no.9 to the extent of Rs.61,428/- could not be disputed and thus, the entries with respect to a total amount of Rs.91,20,053/- could not be disputed. Similarly, entries no.3, 8, 9, 10, 11, 12, 13, 14 and 15 totalling Rs.30,98,591/- of the expenditure chart could also not be disputed by the State and thus, the total amount of the entries, which are not disputed, comes to Rs.1,22,18,644/-. It is the argument of the learned State counsel that the said entries have not been disputed as they reflect in the bank statements and other documents but the said transactions are not bonafide transactions. However, learned

State counsel has not been able to point out any material from the challan / report under Section 173 Cr.P.C. to show that the transactions are not bonafide transactions. However, this Court for the purpose of deciding the present regular bail petitions does not wish to give any affirmative opinion on the said aspect and all the issues even with respect to the abovesaid entries, are left open for the trial Court to finally adjudicate upon. Even with respect to the other entries, it would be relevant to note that as is apparent from the arguments raised on behalf of the petitioners and also from the abovesaid chart, the petitioners have tried to substantiate the said entries on the basis of documents including bank statements, reference of which, has been made in the last column of the said chart. In case, the petitioners are able to prove the said entries during the course of the trial, then they would be able to explain a substantial amount of the total disputed amount of Rs.2,82,457,753.41/-. However, this Court does not wish to any give any final opinion with respect to the respective arguments raised on behalf of the petitioners and the State even with respect to the said entries and suffice it to observe that the said arguments raise several debtable issues which would be finally considered during the course of trial.

62. The Hon'ble Supreme Court in ***State of Chhattisgarh's*** case (supra) has observed as under:-

> *"Mr. Mukul Rohtgi, learned senior counsel submitted that the respondent is a very high ranking police officer being Additional Director General of Police and has indulged in tampering of evidence. He submits that all these aspects have been ignored by the High Court while granting bail to the respondent.*

We find that the present petition is nothing but a totally unwarranted exercise on behalf of the petitioner- State. While considering the application for bail, the status of the applicant is not to be considered. As an ordinary citizen is entitled to his rights under the Constitution, equally a high ranking officer cannot be denied the right under the Constitution. In a case of disproportionate assets, most of the evidence is documentary evidence and therefore, there is no question of tampering such an evidence. *Moreover, in any case the High Court has imposed stringent conditions to ensure the interest of the prosecution.*

The present Special Leave Petition is without any merit and is accordingly dismissed.

Pending applications also stand disposed of."

63. The present case is based on documentary evidence and the said documents are with the prosecution and the investigation qua the petitioners is complete and the report under Section 173 (2) Cr.P.C. has already been submitted and thus, no useful purpose would be served by keeping the petitioners in further incarceration.

64. Keeping in view the above said facts and circumstances, both the present petitions are allowed and the petitioners are ordered to be released on bail on their furnishing bail / surety bonds to the satisfaction of the concerned trial Court/ Duty Magistrate and subject to them not being required in any other case and subject to the condition that the petitioners would surrender their passports before the trial Court.

65. However, it is made clear that in case, any act is done by the petitioners to threaten or influence the complainant or any of the witnesses, then it would be open to the State to move an application for cancellation of

the bail granted to the petitioners.

66. Nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present order which are only for the purpose of adjudicating the present bail petitions. All questions with respect to the admissibility, relevance and genuineness of the documents submitted by both the parties are kept open, to be finally considered and adjudicated upon during the course of trial.

67. Pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid order.

09.01.2024 **(VIKAS BAHL)**
Naresh/Pawan/Davinder **JUDGE**

Whether speaking/reasoned:- Yes/No
Whether reportable:- Yes/No