IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.166 OF 2016

Monoj Luis Lop .. Applicant
Vs.
The State of Maharashtra .. Respondent

WITH
ANTICIPATORY BAIL APPLICATION NO.447 OF 2016

Bharat Mohanlal Kothari & Anr. .. Applicants
Vs.
The State of Maharashtra .. Respondent

WITH
ANTICIPATORY BAIL APPLICATION NO.502 OF 2016

Devendra Rajvirsingh Thakur .. Applicant
Vs.
The State of Maharashtra .. Respondent

WITH
SUO MOTU (SMAP) APPLICATION NO.1 OF 2017

High Court on its own Motion .. Applicant
Vs.
Nitin Anant Naik & Anr. .. Respondents

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Mr.A.K. Dubey i/b.Law Counsellors, Advocate for the Applicant in ABA 166 of 2016.

Mr.M.S. Mohite a/w. Mr.Rahul Sharma, Advocate for the Applicants in ABA 447 of 2016.

Mr.R.B. Raghuwanshi a/w. Mr.Ratnesh Dubey i/b. Mr.Manoj Mirchandani, Advocate for the Applicant in ABA 502 of 2016.

Mr.S.V. Marwadi i/b.Mr.Omkar Nagvekar, Advocate for Respondent Nos.1 and 2 in SMAP No.1 of 2017.

Mr.Ajay Patil, APP for Respondent – State.

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CORAM : PRAKASH D. NAIK, JJ.

DATED : JULY 6 , 2017.

P.C. :

1 The Applicants in all these applications are impleaded as Accused in C.R. No.I-4 of 2016 registered at Arnala Police Station for offences u/s. 465, 467, 468, 471, 472, 474, 420 r/w. 120B of IPC. The Applicants in Anticipatory Bail Application No.166 of 2016, Anticipatory Bail Application No.447 of 2016 and Anticipatory Bail Application No.502 of 2016 are seeking anticipatory bail in connection with the aforesaid First Information Report. They had preferred applications u/s. 438 of Cr.P.C. before the Sessions Court, which has been rejected by the said Court. The Respondents in Suo-Motu Application No.1 of 2017 were granted bail by the Court of Metropolitan Magistrate by order dated 25th January 2016. During the course of the hearing of these applications preferred by the other Accused, this Court, by order dated 25th November 2016, was pleased to observe that the case needs to be considered as to whether the bail granted to Accused Nos.9 and 10 requires to be cancelled and hence this Court, in the said order, issued notice to the

Respondents in Suo-Motu Application No.1 of 2017. The said notice has been served upon them.

2 The prosecution case is as follows :-

(a) The property bearing Survey No.289/3, admeasuring 19.20 R, situated at Village Bolinj, Taluka Vasai, is owned by the Applicant in Anticipatory Bail Application No.166 of 2016 and his sisters, who were impleaded as Accused Nos.1 to 7. The said property was the ancestral property inherited by them from their father. The Applicant in Anticipatory Bail Application No.166 of 2016 was impleaded as Accused No.8.

(b) Accused Nos.1 to 8 decided to grant development rights of the said property. For the said purpose, the said Accused executed a Power of Attorney in favour of the Applicant (Accused No.8). On the basis of the said Power of Attorney, on 14th September 2007, Accused No.8 executed a registered Development Agreement in favour of Accused Nos.9 and 10, who are the Respondents in Suo-Motu Application No.1 of 2017. An Irrevocable Power of Attorney was also executed on 22nd September 2007 in favour of Accused Nos.9 and 10. The said Accused were the Partners of M/s. Sankalp Builders and Developers.

(c) Accused Nos.9 and 10 appointed M/s. Creative Architectural and Project Consultants as their Architect for the said project. On 16th June 2009, building permission was issued by CIDCO permitting construction of three bungalows with ground floor only, with the total built-up area of 334.50 sq.mtrs. The permission stands in the name of Accused Nos.1 to 8. The same is granted through the said Developer and issued in the name of the original owners.

(d) On 25th May 2008, Accused Nos.9 and 10 have executed a Development Agreement in respect to the said project in favour of Accused Nos.11 to 13. The said Accused are the Applicants in Anticipatory Bail Application No.447 of 2016 and Anticipatory Bail Application No.502 of 2016.

(e) The First Information Report was lodged by Ramesh Mandkar against the Accused. The Informant is working as

'Assistant Commissioner' of Vasai-Virar Corporation. In the F.I.R., it is alleged that CIDCO had granted permission of three bungalows, i.e. 335.50 sq.mtrs. construction area, as per the order passed on 16th June 2009. However, the Accused prepared false document of permission and made an alteration in the permission granted by CIDCO and fraudulently shown that the permission was granted for construction of an area of 3338.65 sq.mtrs. and, thereafter, the construction of the building was carried out. After the construction, even the premises were sold out to the purchasers by the Accused.

3 The learned counsel for the Applicant in Anticipatory Bail Application No.166 of 2016 submitted that the Applicant and his family members are the owners of the said plot of land. In 2007, the co-accused Nitin Naik and Bhushan Vartak approached the Applicant and his family and represented that since their agricultural land was lying vacant, the same can be developed. The Applicant and his family members were agriculturists and they were not aware of the issues and procedures related to documentation and construction and hence were hesitant in acting upon representations of the said persons. However, they

were assured that the Applicant and his family members has nothing to do and all the documentations, such as, getting N.A. permissions, development permissions and other documentations, will be taken care of by the said Accused. The Applicant agreed to the proposal of the co-accused on the condition that the work related to all the documentation would be taken care of by them. The said Developers suggested that the Applicant's family members should execute a Power of Attorney in favour of the Applicant, who will, in turn, execute another Power of Attorney in favour of the said Developers to grant them the right to deal with the authorities. The Applicant and his family were assured that they would get three bungalows from the developed property of ten bungalows as and by way of compensation towards surrendering the rights in the said plot. The Applicant executed Power of Attorney dated 3rd September 2007 from his family members authorizing him to act on their behalf. Based on the Power of Attorney, the Applicant executed Development Agreement dated 4th September 2007 in favour of the said Developers. The Development Agreement was registered in the office of the Registrar of Sub-Assurances, Vasai. The Applicant was persuaded to execute a Power of Attorney in favour of the said co-accused to enable them to submit applications for obtaining N.A. permissions and other formalities. Accepting the said request, the Applicant executed an Irrevocable Power of Attorney dated 22nd September 2007 in favour of the said Accused. In the Power of Attorney, it was categorically stated that the co-accused Nitin Naik and Bhushan Vartak would obtain the requisite permissions for the development work of the proposed bungalows. The Applicant and his family members have not signed any documents submitted for obtaining permission for development of the said property, as the permissions were applied for and obtained on the basis of Power of Attorney and Development Agreement executed by the Applicant with the said Accused. It is submitted that the Developers then assigned their rights in favour of M/s. Sai-Suman Developers by executing a Development Agreement dated 25th May 2008 and, subsequently, registered the same by executing a Confirmation Deed dated 15th October 2009. It is submitted that the Applicant or his family members were not informed of execution of the said Development Agreement, nor they were made party to the same. The only assurance that the Applicant was given is that, since the co-accused were unable to develop the property, they have given the development contract to M/s. Sai-Suman Developers and the Applicants would get their due consideration. M/s. Sai-Suman Developers further represented that they have revised the permission on the basis of Power of Attorney given by the Applicants and are going to construct building instead of bungalows and, therefore, they could not give bungalows as consideration to the Development Agreement dated 4th September 2016. The Developers settled the Applicants by making a payment of Rs.1,15,00,000/- as and by way of final settlement in the year 2009. In view of that, the Applicant did not take care of the development on the said plot and was not in touch with any of the co-accused. In January 2016, the Applicant learnt about registration of the First Information Report with the aforesaid Police Station against all the accused persons. The Applicant or his family members are not concerned with forgery of the development permission, which is the subject matter of the First Information Report. All the permissions were applied by the co-accused Developers Mr. Nitin Naik and Mr. Bhushan Vartak and have been obtained by them. The Applicant, therefore, being apprehending arrest, preferred an application for anticipatory bail before the Sessions Court at Vasai. The application preferred by the Applicant and his family members was rejected on 25th January 2016. However, the application preferred by the Developers - Accused Nos.9 and 10 was allowed by the Session Court by order dated 25th January 2016. It is, therefore, prayed that the Applicant may be granted anticipatory bail.

4 Learned A.P.P. opposed the application for anticipatory bail. It is submitted that the Applicant is involved in the said crime. The Applicant cannot feign ignorance to the entire episode by stating that the permissions were obtained by Accused Nos.9 and 10. The Applicant is the owner of the premises and he had executed the document of development of the property to the Accused Nos.9 and 10. The Applicant ought to have a knowledge about the permission granted for development of the property. The Applicant was definitely aware that the development permission was for construction of three bungalows; whereas, the Accused had constructed a building at the said premises. The Applicant is residing in the adjacent place and he should have a knowledge that the building is being constructed instead of bungalows. The Applicant now cannot escape from the liability by stating that he was not aware of the transactions and the permissions obtained by the Developers, to whom the rights were assigned. It is submitted that CIDCO had granted permission for three bungalows and for construction area of 335.50 sq.mtrs vide

permission dated 16th June 2009. However, the Accused prepared forged document of permission and made alteration in the permission given by CIDCO and fraudulently shown that they received permission of 3338.65 sq.mtr. construction area. The Development Agreement shows that the consideration agreed to be given to the owner is 30% of built-up area sanctioned by CIDCO and, therefore, if the area is more, the owner will definitely get more benefit and, therefore, the Applicant was the beneficiary in the said deal. It is, therefore, submitted that the Applicant is not entitled for anticipatory bail.

5 The learned advocate for the applicant appearing in ABA No.447 of 2016 submitted that the applicants were small time investors who are looking for an investment in construction project. In the process they met Mr.Devendra Rajbhirsingh Thakur and the applicants along with Mr.Thakur became the partners of M/s.Sai Suman Developer for carrying on the development of plots in and around Vasai. Shri Thakur has preferred ABA No.502 of 2016. Somewhere in October 2009, accused nos.9 and 10 approached the applicants and represented that they are partners of Sankalp Builders and Developers and had acquired the rights, title and interest in the plot from all the

land owners and are unable to complete the project. They were interested in assigning the rights with respect to development of plot bearing Survey No.289, Hissa No.3 at village Bolinj. The accused nos.9 and 10 further represented that they have acquired all permissions such as N.A permission, development permissions and other documentations from the requisite authorities including the planing department of CIDCO. It was also informed to the applicants that initially the building permission issued by CIDCO was permitting construction of three Bungalows with ground floor, but, was subsequently revised to two buildings with ground plus four upper floors with built up area of 3338.65 sq. meters. It was further represented that they are also architects of the said project and were not interested in development of the said plot and, therefore, wanted their rights for suitable developer. Since the project seem to be lucrative to the applicants, they agreed to execute the requisite documents and entered into the transaction for a consideration of Rs.30,30,000/-. The development agreement was executed on 9th October, 2009, between the applicants and accused nos.9 and 10. The development agreement was duly registered in the office of Registrar of Sub-Assurances, Vasai. The plot was developed according to the commencement certificate and sanctioned plan which was handed over to the applicant by accused nos.9 and 10. It is submitted that the colleague of the applicant Shri Devendra Thakur, as per the development agreement, created third party rights in the flat and shops constructed on the said plot by executing further agreement. Subsequently, it was learnt that FIR has been registered with the aforesaid police station against all the accused persons. The applicants, thereafter apprehended arrest and, therefore, preferred an application for anticipatory bail before the Court of Sessions. The application preferred by the applicants was rejected by the Sessions Court on 18th February, 2016. It is further submitted that the CIDCO had issued a notice for demolition of the structure stating that the same is unauthorized. In pursuant to the said notice, M/s.Sai Suman Developers had filed a suit in the Court of Civil Judge, Vasai which is treated as Regular Suiti No.182 of 2010. In the said suit, the Joint Civil Judge, Junior Division, Vasai has passed an order on 30th April, 2010, directing the defendants i.e. CIDCO to maintain status-quo till filing of the written statement and say. It is submitted that the applicants were not concerned with the forgery of the development permission. They were the developers in pursuant to the agreement executed with accused nos.9 and 10. All the permissions required for construction were obtained by the accused nos.9 and 10. They were not aware that the development certificate which was issued earlier has been forged by the co-accused. It is, therefore, submitted that the applicant has no role to play in the forgery of the documents and they may be granted anticipatory bail.

6 Learned A.P.P. controverted the submissions advanced by the Applicants. It is submitted that the Applicants have also played a major role in commission of the crime. It is submitted that all Accused are responsible for commission of the offence. The Accused cannot shift the burden by accusing others. The Applicants are the persons who had been assigned rights of construction in pursuant to the agreement executed between the Applicants and Accused Nos.9 and 10. The construction was carried out by the Applicants and hence they were equally responsible for the construction and thereby commission of the offences. The construction was carried out on the basis of the forged Development Certificate. The Applicants cannot show ignorance to the fact that the Development Certificate was forged and fabricated. The Applicants had constructed a building and even the flats were sold to the purchasers. The entire building was unauthorized and it was constructed on the basis of

fabricated document. The Applicants, therefore, cannot escape from the liability and, therefore, are equally liable for commission of the offence. The application for anticipatory bail may be rejected. The Applicants are Builders, who are the beneficiaries.

7 The learned counsel appearing for the Applicant in Anticipatory Bail Application No.502 of 2016 submitted that the Applicant is a business-man and is involved in construction. He is the Partner of M/s. Sai-Suman Developers. It is submitted that Accused Nos.9 and 10 were Partners of M/s. Sankalp Developers, who have executed Development Agreement dated 25th May 2008 with M/s. Sai-Suman Developers, a Partnership Firm, of which the Applicant is one of the Partners along with two other co-accused, who are Applicants in Anticipatory Bail Application No.447 of 2016. It is submitted that co-accused Nitin Naik is an Architect and he is well aware about the procedure and formalities which are required to be complied before all the statutory authorities at the time of construction of the building. M/s. Sankalp Developers had put up all the papers before the authorities for obtaining requisite permissions and the Applicant-Firm came into picture subsequently, after all the permissions were obtained by the co-accused. It is submitted that, in

accordance with the Power of Attorney executed with Accused Nos.9 and 10, the formalities about the compliance of statutory requirements was assigned to the said Accused. It is submitted that, surprisingly, Accused Nos.9 and 10 were granted anticipatory bail by the Sessions Court on the ground that at the time of commission of offence, they were not in picture and the application preferred by the Applicant and the other Accused was rejected. It is submitted that other Accused are the real beneficiaries in the said transaction. It is submitted that the Applicant has no role to play in the alleged forged document. On the face of the record, it is apparent that all the requisite permissions were obtained by the co-accused and Applicant cannot be held responsible for the forgery of the said document. It is, therefore, submitted that the applicant may be granted anticipatory bail.

8 Learned A.P.P. opposed the aforesaid application. It is submitted that the submissions advanced by the learned A.P.P. opposing the Bail Application of the Applicants in Anticipatory Bail Application No.447 of 2016 are also applicable to the present Applicant. In addition to that, it is submitted that, the Applicant is a person who had sold the flats to the third parties and had

collected the consideration from the purchasers of the flat. It is submitted that, along with the other Accused, the Applicant is equally responsible for commission of crime and he cannot shrink his responsibility stating that he had no knowledge of the forgery of the said document.

9 The respondent in SMAP No.1 of 2017 are the accused nos.9 and 10. This court had issued notice to the said respondent – accused as to why the bail granted to them should not be cancelled. In pursuant to that, the notice has been executed upon the said accused and they are represented by the counsel. They have also filed a reply before this Court defending the notice issued to them and has submitted that the order passed by the Sessions Court granting anticipatory bail to the said accused may not be interfered with. Accused nos.9 and 10 are the persons who had executed the development agreement with accused nos.1 to 8. Accused nos.9 and 10 are the partners of Sankalp Builders and Developers. It is pertinent to note that accused nos.1 to 8, as well as accused nos.11 to 13 has stated that the accused nos.9 and 10 are the persons who have played a vital role in commission of the forgery of development certificate. All the other accused have blamed the said accused for

commission of the said crime. They were the persons who had executed the development agreement with accused nos.1 to 8. It is contended by accused nos.1 to 8 that all the requisite permission including the development permission, N.A. Permission etc. and whatever formalities to be complied with the concerned authorities were to be executed by accused nos.9 and 10. Learned advocate appearing for accused nos.9 and 10 i.e. the respondents in SMAP No.1 of 2017 has submitted that after executing the agreement with the co-accused they were not concerned with any part of the development of the property and more so as agreed in the agreement that the respondents were to hand over the letter issued by CIDCO granting commencement certificate in their name. It is further submitted that after the notice issued by this Court, it has come to the knowledge of the said respondents that a body known as Jan Adhikar Kruti Samiti had filed a PIL in this Court being PIL No.148 of 2010. In the said petition, they have annexed as to how from time to time the CIDCO had issued notice to the accused no.11 about the illegal construction. It is, therefore, submitted that no application was made by accused nos.11, 12 and 13 by submitting a plan for building construction and getting the permission for the same. He further submitted that in pursuant to the notice issued by CIDCO to accused Nos.11 to 13, a suit has been filed in the Court of Civil Judge, wherein interim order of status-quo has been passed by the Court. However, the suit was disposed of on 4th January, 2016, as they did not attend the Court. It is submitted that the said respondents were noway concerned with the construction of the building and sell of the flat which are undertaken by accused nos.11 to 18, have earned the money alleged in the said transaction. In fact, they have not submitted the commencement certificate granted by CIDCO or any other document to seek permission of the entire development of the property. The fact that the use of the said forged document is made by them to sell the said flats in the building constructed by them in which respondents have no right or any amount is to be received by them. The said document itself shows that the accused have forged the area by changing land used of three Bungalows to residential building and as aforesaid built up area is changed to construct the building and to sell the flat. The respondents are not concerned with the documents executed by the co-accused with the purchasers of the flats. The learned counsel also placed reliance upon the requisite documents by filing the compilation of the documents. It is submitted that the Sessions Court has rightly allowed the application for anticipatory bail preferred by them.

It is submitted that there is no evidence to show that the respondents are concerned with forgery of the development permission. The applicant had assigned the rights of development to the co-accused and, thereafter, he was not in the picture. As to how and who has committed forgery, the said respondents are not aware and cannot be held responsible for the same. It is submitted that merely on the interference the respondents cannot be subjected to custody. The said respondents are not beneficiary and the building is constructed by other accused and not by the said respondents. It is submitted that the CIDCO is responsible for granting permissions to the developers for carrying out the construction. In the PIL that was the grievance made that the CIDCO is not taking action against the unauthorized construction and had been granting permissions for constructions. The Sessions Court while granting anticipatory bail to the said respondents had observed that the CIDCO had granted permission of three bungalows i.e. built up area 334.50 square feet on 16th June, 2009. The development agreement dated 30th April, 2008 shows that the said respondents were assigned the development rights to Sai Suman Developers. They have also received the entire consideration. The confirmation documents regarding it were registered on 15th October, 2009.

However, though the document is registered on 15th October, 2009, the development agreement was executed on 30th April, 2008 and, therefore, the date of execution of the said document is 30th April, 2008 and the permission was granted on 16th June, 2009. This means that when the permission was granted by CIDCO at that time the applicants were not concerned with the property. In the light of the said observations, the application preferred by the said respondents was allowed by the Sessions Court. Learned counsel submitted that the reasons given by the Sessions Court is cogent and it is not required to be interfered. The said fact, as observed by the Sessions Court is borne out from the documents on record and, therefore, the grant of anticipatory bail to the said respondents is justified.

10 Learned APP submitted that the Sessions Court has passed an order which is contrary to the record. It is submitted that there is ample evidence against the aforesaid respondents showing their involvement in the crime. Surprisingly, the Sessions Court had rejected the applications of the other co-accused and granted the applications preferred by accused nos.9 and 10. It is submitted that they are the main persons who had executed the development agreement with accused nos.1 to 8

and, thereafter, handed over the development to the other accused by executing the further agreement. It is the matter of record that all the permissions with regard to the construction, N.A. Permission and development permission etc., were applied for by the accused nos.9 and 10 and, therefore, their complicity is established during the course of investigation and they are not entitled for the relief which has been granted by the Sessions Court to them. It is, therefore, submitted that the order passed by the Sessions Court may be set aside.

11 On perusal of the documents, it is apparent that the accused nos.1 to 8 decided to develop their property. Accused nos.1 to 7 executed the Power of Attorney in favour of accused no.8 (applicant in ABA No.166 of 2016). On the basis of the said Power of Attorney, accused no.8 executed the development agreement in favour of accused nos.9 and 10 (respondents in SMAP No.1 of 2017). An irrevocable power of attorney dated 27th September, 2017 is also executed in favour of accused nos.9 and 10. The said accused constituted an entity namely Sankalp Builder and Developer to execute the said project. On 7th December, 2016 they appointed the architect for the said project. The documents show that the architect and the said developers

had paid various amounts and also have entered into various correspondence with the CIDCO which makes it clear that they had obtained the building permissions. On 16th June, 2009, the building permission was issued by CIDCO permitting construction of three Bungalows with ground floor only with the total built up area of 3345.50 sq. meters. The permission was issued in the name of accused nos.1 to 8. On 25th May, 2008, accused nos.9 and 10 executed Development Agreement in favour of accused nos.11 to 13 (applicant in ABA Nos.447 of 2016 and 502 of 2016). In the original development permission dated 16th June, 2009 issued by the CIDCO, it has been stated that the commencement certificate for the proposed residential building (Bungalows) on the land bearing Survey No.289, Hissa No.3 of village Bolinj, Taluka Vasai is being granted. The description given in the said permission was that the number of building/bungalows was three and the land used was for residential (bungalows), the number of floors was ground and the built up area proposed was 334.50 sq. meters. However, in the forged commencement certificate it has been stated that the land used is residential building and the number of building is two as well as the number of floors is ground plus four floors and the built up area proposed is 3338.65 square meters. Therefore, there was major change/alteration in the forged document which are relied upon for construction of the building. PIL No.148 of 2010 was filed in this Court by Jan Adhikar Kruti Samiti. In the said PIL, it was stated that the commencement certificate for the Bungalows of the ground floor was only granted. However, instead of construction of the bungalows, the developers and the accused have started making construction of a building. The notice was issued by the CIDCO under Section 54 (1) of the MRTP Act, in respect to the said construction. It was contended therein that the authorities have not initiated any action against the unauthorized construction. The same construction is the subject matter of the present first information report. The co-accused thereafter filed a suit and had obtained the status quo order in relation to the notice issued by the CIDCO. The applicant in ABA 166 of 2016 is the owner of the subject land. He was aware that the only permission is granted to construct the three bungalows. The development agreement shows that the consideration agreed to be given to the owner is 30% of built up area sanctioned by CIDCO and, therefore, if the area is more, the owner will definitely get additional benefit. The applicant was given the power of Attorney by accused nos.1 to 7. The applicant, therefore, cannot feign ignorance to the forgery and the unauthorized construction carried out on the plot of land which is owned by him and his family members. The applicant's in ABA No.447 of 2016 and 502 of 2016 were the partners of the Sai Suman Developers. The agreement was executed between Sankalp Builders and Developers and M/s. Sai Suman Developers for development of the said plot of land. The agreement was executed between Sankalp Builders and Developers and M/s.Sai Suman Developers for development of the said plot of land. After assuming the said development rights, the applicant and Sai Suman Developers made constructions and they have sold flats. The said applicant developed the property knowing fully well, that permission for construction of three Bungalows was granted and after manipulating permission was fabricated to an exorbitant area to the extent of 3338.65 sq. meters. The original permission was for three Bungalows and what was constructed by the said applicants was building and, therefore, the flats were also sold to the third parties. It is difficult to accept that the said applicants were in dark about the fabricated document in the form of the development permission which came into existence at a later point of time and on the basis of which the construction was carried out. Accused nos.1 to 8 are blaming accused nos.9 and 10. Similarly, accused nos.11, 12 and 13 have blamed accused nos.9 and 10 for the commission of the crime. All of them have taken a stand that they were not aware about the forged document and have blamed each other by shifting their burden. It is also pertinent to note that the applicants in ABA No.447 of 2016 has also contended that after construction of the flats in the building, the same were sold by executing documents by the applicant – accused in ABA No..502 of 2016. It was therefore, contended that he was the beneficiary for the construction which he had received by selling the flat. It is, therefore apparent that all of them are blaming each other. It is necessary to have confrontation and custodial interrogation is necessary to find out the specific role of each and every person in commission of the serious crime. I find that there is substance in the submissions advanced by the learned APP to oppose the grant of anticipatory bail to all the applicants and also in support of the cancellation of anticipatory bail granted to respondents in SMAP No.1 of 2017. It is pertinent to note that the learned Sessions Judge has allowed the application of the respondent in SMAP No.1 of 2017 on the inference that they are not the party to the crime in view of the fact that the original permission was issued after the agreement was executed with the co-accused. Learned Judge failed to consider that accused nos.9 and 10 are the persons with whom accused nos. 1 to 8 had executed the development agreement. In the agreement as well as in the Power of Attorney executed in their favour, it is implicit that they were the persons who are supposed to comply with all the formalities including grant of NA permission, commencement permission, construction permission etc. They were authorized to carry out all the requisite formalities by executing a power of attorney in their favour. The learned Sessions Judge, however, granted anticipatory bail to the said applicant while rejecting the other applicants for anticipatory bail preferred by the co-accused. The custodial interrogation of accused nos. 9 and 10 is necessary along with the other accused who had preferred the applications for anticipatory bail. The investigation has to be carried out on interrogating all the accused who had played a vital role in commission of the crime. It is necessary to find out as to how in what manner and when the documents were forged and how they have connived with each other in committing the said crime. Except feigning ignorance, there is no other ground raised by the applicants to justify the grant of anticipatory bail. On perusal of the documents and considering the submissions advanced by the learned APP, I feel that there is enormous evidence to justify the custodial interrogation of the applicants and they are not entitled for any relief under Section 438 of the Cr.P.C. The anticipatory bail granted to the respondents in SMAP No.1 of 2017 is not justifiable and the order deserves to be set aside.

12 Hence, I pass the following order :-

:: O R D E R ::

(i) Anticipatory Bail Application No.166 of 2016, Anticipatory Bail Application No.447 of 2016 and Anticipatory Bail Application No.502 of 2016 are rejected;

(ii) The anticipatory bail granted by the Sessions Court vide order dated 25th January 2016 in Anticipatory Bail Application No.25 of 2016, which is subject matter of Suo-Motu Application No.1 of 2017, is set aside and the anticipatory bail, therefore, stands cancelled. The Respondents in Suo-Motu Application No.1 of 2017 are directed to surrender before the Investigating Officer within a period of six weeks;

(iii) The learned Advocates appearing for the respective parties submitted that they intend to challenge this order before the Apex Court and, therefore, prayed that the interim protection granted by this Court may be extended for a period of six weeks, to enable the Applicants and the Respondents in Suo-Motu Application No.1 of 2017 to challenge this order before the Apex Court;

(iv) Considering the submissions advanced, the interim order granted in all these Anticipatory Bail Applications is extended for a period of six weeks. The order cancelling anticipatory bail granted to the Respondents in Suo-Motu Application No.1 of 2017 is stayed for a period of six weeks from today;

(v) All Anticipatory Bail Applications stand disposed of in the above terms.

(PRAKASH D. NAIK, J.)