

*Nalawade*FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1886 OF 2016
Anthony @ D'silva and anr. vs. The State of Maharashtra

Office Notes, Office Memorandum of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. Niranjan Munderggi with Ashutosh Gole for the Applicant.
Mrs. Jyoti Lohokare, APP for the Respondent-State.

CORAM :A.S.GADKARI, J.

DATE : 5st April, 2017

P.C.

1) The applicant are apprehending arrest in CR No.I-201-2016 dated 16.8.2016 registered with Nalasopara Police Station, District Palghar under Sections-420, 464, 468, 471 read with 34 of the I.P.C. and under Sections-52,53 and 54 of the M.R.T.P Act, 1966.

2) The first information report is lodged by Prakash Baliram Jadhav, the Incharge Assistant Commissioner of Vasai-Virar Municipal Corporation. It is the allegation against the applicants and other accused persons in the present crime is that, the applicant along with other accused persons forged and fabricated the commencement certificate and other related documents and thereby constructed unauthorized and illegal buildings on Survey Nos.4 and 5. That, the development permission granted by the Planning Authority i.e. CIDCO has

been forged and instead of constructing buildings as per the original development permission and commencement certificate, the accused persons constructed not only additional buildings but also constructed additional floors on the buildings. In the premise, the first information report is lodged.

3) The learned counsel for the applicants submitted that Mr. Anil Gupta and Mr. Nitin Pitale are the partners of M/s. Sai Leela Developers and the applicants are only investors in the said project. That, the applicants have no concern with the said permission received by the other partner of the said firm namely Mr. Anil Gupta. He further submitted that all the permissions are in the name of Anil Gupta. He further submitted that Anil Gupta has already been arrested by the police and no fruitful purpose will be served by arresting the applicants. He therefore, prayed that the applicants may be granted pre-arrest bail.

4) I have perused the record pertaining to the investigation of the present crime. The record reveals that the applicants are the beneficiaries from the profits of the construction, inter alia proceeds of the crime. The applicant in connivance with the accused persons have indulged into forging and fabricating the development permission and other related documents and by using the said documents 10 buildings have been constructed on the said survey numbers wherein in all 351 flats and 49 shops are sold to approximately 400-persons. The record clearly reveals that the applicants have accepted benefits of the construction i.e. they are inter alia beneficiaries of the profits of Sai Leela Developers.

5) It is to be noted here that in Public Interest Litigation No..

85/2015 while taking serious note of the illegal constructions on the basis of the forged and fabricated development permission and commencement certificate, the Division Bench of this Court by its order dated 16.12.2015 has directed the concerned to take appropriate legal action against such persons involved in the said activities and it appears that the present crime registered against the applicants and other persons is the result thereof. As stated herein above, the investigation till date carried out by the police reveals that the applicants along with other accused persons have indulged into fabricating and/or forging the development permission and/or other related documents and have constructed unauthorized buildings and sold the flats to the purchasers.

6) After taking into consideration the gravity of the offence and the serious allegations against the applicants, this court is of the view that the applicants do not deserve to be protected by way of pre-arrest bail.

7) The application being sans of any merits, is accordingly rejected.

(A.S.GADKARI, J.)