

## **HIGH COURT OF CHHATTISGARH, BILASPUR**

**CRMP No. 659 of 2018**

1. Toral Tank D/o Late Shri Pradeep Tank Aged About 24 Years  
R/o- Richmond Grand, Near Torrent Power, Near Makarba Crossing, Prahlad Nagar Road, Ahmadabad, District : Ahmadabad, Gujarat
2. Kumud Tank W/o Late Shri Pradeep Tank Aged About 52 Years R/o- Richmond Grand, Near Torrent Power, Near Makarba Crossing, Prahlad Nagar Road, Ahmadabad, District Ahmadabad, Gujarat

**--- Petitioners**

**Versus**

1. State of Chhattisgarh through Its District Magistrate, Durg, District- Durg, District : Durg, Chhattisgarh
2. Station House Officer Women Police Station, Durg, District- Durg, Chhattisgarh.
3. Smt. Vinita Tank, wife of Paresh Tank, aged about 27 years, R/o through Shri Kumar Kant Tank, H.No.35/1, Street-8-B, Matri Nagar, Resali, Bhilai, Police Station Newai, Tahsil & District Durg (C.G).

**--- Respondents**

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| For the Petitioners | : | Mr. Vaibhav Shukla and Mrs. Astha Shukla, Advocates |
| For the State       | : | Mr. Suryakant Mishra, Advocate                      |
| For respondent No.3 | : | Mr. T.K. Jha, Advocate                              |

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**Hon'ble Shri Justice Goutam Bhaduri**

**Order on Board**

**30.04.2018**

1. Heard.
2. The instant petition is against the imposition of Condition No.3 while granting the anticipatory bail by order dated 19.06.2017 wherein the petitioner was directed to deposit the passport with a further direction that she will not cross the border of the country till filing of the challan.
3. Learned counsel presently confined the prayer to petitioner

No.1 alone and do not press the petition on behalf of Petitioner No.2 at this stage.

4. Learned counsel for the petitioner would submit that Petitioner No.1 Toral Tank is a student and she is pursuing her studies in M.P.A., at Australia. It is contended that because of imposition of condition if she has not completed her target in attendance and if her attendance falls below 85%, then she will not be able to prosecute her studies and appear in the examinations. He placed reliance in case of *Pushpal Swarnkar Vs. state of Chhattisgarh* decided on 03.12.2008 and submits that the condition so imposed directing her to deposit Passport and VISA is against the provisions of section 10(3) of the Passport Act 1967 since the passport authorities are only empowered to impound the passport. It is further submitted that an amount of Rs.9 lakhs have been deposited to prosecute the studies in abroad and if she is not able to continue her studies, it will adversely affect her future career which cannot be restored by any means. It is further submitted that the charge sheet has already been filed and another condition which is imposed on the applicants that they will cooperate during investigation is already lived its life, therefore, the condition wherein the passport has been directed to be deposited be diluted.
5. Shri T.K. Jha, learned counsel appearing on behalf of respondent No.3 opposes the same and submits that as and when the need arises, the presence of the petitioner may be ensured by the order of this Court by imposing proper conditions.

6. Perused the conditions of anticipatory bail order dated 19.06.2017 wherein it was directed that the petitioner shall deposit her passport with the police and they will not go out of India without the permission of the Court. Also perused the case diary and the nature of allegations qua the petitioner Toral Tank who is said to be prosecuting her studies in La Trobe University at Australia. The letter addressed to petitioner Toral Tank purports that she is going to fall below the attendance of 85% and she is advised to review her current approach to attend the lectures and tutorials as there is a strong correlation between low attendance at lectures and tutorials and poor academic progress. The documents which is placed on record also shows that an amount of 17,300 dollars have been paid to pursue the academic course in the university.
7. On careful consideration of the entire documents and the nature of allegations, I am of the opinion that if the condition to deposit the passport is not diluted, petitioner Toral Tank will face irreparable loss as the entire career of the student would be adversely affected which cannot be restored even subsequently by the acquittal order. The nature of documents shows that applicant No.1 Toral Tank is prosecuting her studies in abroad and if she is restrained to continue with her studies by holding her passport the entire academic career would be damaged. Further more , the condition so imposed apparently appears to be against section 10(3) of the Passport Act 1967 which only empowers the passport authorities to impound the passport.
8. It appears that apparently the other close family members

are before the trial Court. Therefore, in view of the above discussion, it is directed that condition No.3 wherein the Petitioner No.1 was directed to deposit her passport in the Mahila Thana, Durg, is set aside. The passport if so deposited with the Police Station shall be returned forthwith. Under the circumstances, it is also directed that the petitioner shall furnish bail bond of Rs.5 Lakhs with one surety in the like sum to the satisfaction of the concerned trial Court and shall appear as and when specifically ordered for. The present order is confined to petitioner Toral Tank who is said to be prosecuting her studies.

9. With the above observation/direction, this petition stands disposed of.

Sd/-

**GOUTAM BHADURI  
JUDGE**