

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

205

CRM-M-6142-2020

Date of Decision: 08.02.2022

Bomi Engineer

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. B.D.Sharma, Advocate, for the petitioner.

Mr. Anmol Singh Sandhu, AAG, Punjab,
assisted by ASI Gurdial Singh.

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of anticipatory bail in respect of a case registered against him vide FIR No.24 dated 03.02.2016 at Police Station Division No.8, Jalandhar, under Sections 420/120-B IPC.
2. The allegations in nutshell are to the effect that the complainant had placed an order with M/s Ratuja Enterprises for purchasing a turbine. However, upon delivery of the said turbine, it was found that the same was defective and in fact was a second-hand machine. It is further alleged that the petitioner's firm i.e. M/s Hi-Tech Boilers, manufactures boilers, which is a part of the turbine and that on the asking of M/s Ratuja Enterprises, the petitioner's firm had supplied boiler to the complainant, which was fixed in the turbine.

3. Learned counsel for the petitioner has submitted that it is basically M/s Ratuja Enterprises, who is responsible for the quality of the turbine, which had been purchased by the complainant and that the petitioner's firm would not have any liability for the same and that at best, it is M/s Ratuja Enterprises, who could have any grievance against the petitioner's firm for supply of a defective part. It has further been submitted that while the boiler of the turbine was supplied in the year 2009, whereas the FIR in question came to be lodged after about 7 years, when the complainant had already used the same for the said period.
4. On the other hand, learned State counsel has submitted that in view of the specific allegations leveled in the FIR, no case for grant of bail is made out. He has, however, informed that pursuant to interim directions issued by this Court, the petitioner has since joined investigation and is not required for any custodial interrogation and that he is not wanted in any other case.
5. I have considered rival submissions addressed before this Court.
6. Apart from the fact that this Court is prima facie of the opinion that it is M/s Ratuja Enterprises, who would be liable for any shortcoming or any defect in the turbine supplied by it, the material question would be as to whether on account of supply of a defective turbine, the act on part of petitioner would constitute 'criminal liability' or as to whether the same would constitute a 'civil liability' only. In any case, the petitioner is stated to have joined investigation and otherwise has a clean record. In these

circumstances, the instant petition is accepted and the interim directions issued by this Court vide order dated 12.02.2020 are hereby made absolute subject to the condition that the petitioner shall join investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.

08.02.2022

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(GURVINDER SINGH GILL)
JUDGE

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