**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT**

**THE HONOURABLE MR.JUSTICE C.S.DIAS**

**WEDNESDAY, THE 31ST DAY OF JULY 2024 / 9TH SRAVANA, 1946**

**BAIL APPL. NO. 2816 OF 2024**

**CRIME NO.164/2024 OF KADAKKAVOOR POLICE STATION, THIRUVANANTHAPURAM**

**PETITIONER/ACCUSED 1:**

**AMEER S**
**AGED 22 YEARS**
**S/O SABEER, VADAPURAM VEEDU,**
**VAKKOM P.O, TVM-, PIN - 695308**

**BY ADV P.ANOOP (MULAVANA)**

**RESPONDENT/STATE:**

**STATE OF KERALA**
**REPRESENTED BY PUBLIC PROSECUTOR,**
**HIGH COURT OF KERALA, PIN - 682031**

**BY SMT NEEMA T V**
**SENIOR PUBLIC PROSECUTOR**

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 31.07.2024, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Dated this the 31st day of July, 2024

**O R D E R**

The application is filed under Section 438 of the Code of Criminal Procedure, 1973, for an order of pre-arrest bail.

2. The petitioner is the first accused (wrongly shown as the 8th accused) in Crime No. 164/2024 of the Kadakkavoor Police Station, Thiruvananthapuram, which is registered against the accused for allegedly committing the offences punishable under Sections 143, 147, 148, 341, 294(b), 323, 324, 363 and 308 r/w Section 149 of the Indian Penal Code.

3. The essence of the prosecution case is that; on 22.02.2024, at around 20.45 hours, the accused, in furtherance of their common intention, had wrongfully restrained the first informant, and the first accused hit the back of the head of the first informant with a knife,

and he suffered serious injuries. The other accused facilitated the first accused to inflict the above injuries. Thus, the accused have committed the above offences.

4. Even though the bail application was posted from 09.04.2024 on five posting dates, there is no representation for the petitioner.

5. The learned Public Prosecutor opposed the application. She submitted that there is a specific overt act alleged against the petitioner, who allegedly inflicted a cut injury on the head of the first informant. She made available the treatment records of the first informant to substantiate the nature of the injuries suffered by him. She stated that the petitioner’s custodial interrogation is necessary and recovery is to be effected. If the petitioner is granted an order of pre-arrest bail, it would hamper the investigation. Hence, the application may be dismissed.

7. On an evaluation of the materials on record, it can be seen that there is a specific overt act alleged

against the petitioner, who allegedly inflicted a cut injury on the head of the first informant with a knife. The said accusation, prima facie, stands corroborated by the treatment record referred to above. However, that is a matter to be investigated and ultimately decided at the time of trial.

8. In **Jai Prakash Singh v. State of Bihar and another**, [(2012) 4 SCC 379], the Hon'ble Supreme Court has held that, an order of pre-arrest bail being an extra ordinary privilege, should be granted only in exceptional cases. The judicial discretion conferred upon the Courts has to be properly exercised, after proper application of mind, to decide whether it is a fit case to grant an order of pre-arrest bail. The court has to be prima facie satisfied that the applicant has been falsely enroped in the crime and his liberty is being misused.

9. On an anxious consideration of the facts, the rival submissions made across the Bar and the materials placed on record, particularly on considering the fact

that there are prima facie materials to substantiate the petitioner's involvement in the crime, that the petitioner's custodial interrogation is necessary, and the recovery is to be effected, I am not satisfied that the petitioner has made out any valid ground to invoke the discretionary jurisdiction of this Court under Section 438 of the Code. Hence, I hold that this is not a fit case to grant an order of pre-arrest bail.

Resultantly, the bail application is dismissed.

Sd/-

**C.S.DIAS,JUDGE**

mtk/31.07.24