IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE C.S.DIAS

MONDAY, THE 5TH DAY OF AUGUST 2024 / 14TH SRAVANA, 1946

BAIL APPL. NO. 6120 OF 2024

CRIME NO.587/2024 OF Ochira Police Station, Kollam

PETITIONER/ACCUSED :-

RAJENDRAN.Y, AGED 74 YEARS
S/O.YESODHARAN, KOCHUPARAMBIL HOUSE, ALAPPAD,
OACHIRA, AZHEEKKAL. P. O, KOLLAM DISTRICT,
PIN - 690 547

BY ADVS.
MANU ROY
DEVADAS H. MALLAN

RESPONDENT/RESPONDENTS :-

1 **STATE OF KERALA**
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, PIN - 682 031

2 **THE STATION HOUSE OFFICER**
OACHIRA POLICE STATION, KOLLAM DISTRICT,
PIN - 690 543

BY SRI.C.S.HRITHWIK, SR.PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 05.08.2024, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

O R D E R

Dated this the 5th day of August, 2024

The application is filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS', for short), for an order of pre-arrest bail.

2. The petitioner is the sole accused in Crime No.587/2024 of the Ochira Police Station, Kollam, which is registered against him, for allegedly committing the offences punishable under Sections 324, 326 and 506 of the Indian Penal Code.

3. The prosecution case, in brief, is that; on 13.06.2024, at around 20:30 hrs., the accused attacked the de facto complainant (injured) with a soda bottle and he suffered grievous injuries on his right hand as well as eardrum. Thus, the accused has committed the above offences.

4. Heard; Sri.Manu Roy, the learned counsel appearing for the petitioner and Sri.C.S.Hrithwik, the learned Senior Public Prosecutor.

5. The learned counsel for the petitioner submitted that the petitioner is totally innocent of the accusations levelled against him. The Investigating Officer has deliberately incorporated Section 326 of the IPC to see that the petitioner is incarcerated. There is no material to substantiate that the petitioner has committed the offence under Section 326 of the IPC. The petitioner is aged 74 years and does not have any criminal antecedents. The petitioner's custodial interrogation is not necessary and no recovery is to be effected. Hence, the application may be allowed.

6. The learned Public Prosecutor seriously opposed the application. He submitted that the petitioner has assaulted the injured with a soda bottle and he has suffered a fracture of the ulna as well as the temporal bone. He made available the accident register-cum-wound certificate dated 13.06.2024 issued by the Government Taluk Headquarters Hospital, Karunagappally to substantiate the nature of injuries suffered by the injured.

He 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. The prosecution case is that; the petitioner had assaulted the de facto complainant with a soda bottle and he suffered grievous injures. The said accusation *prima facie* stands corroborated by the accident register-cum-wound certificate referred to above. Nonetheless, 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 overall consideration of the facts, the rival submissions made across the Bar and the materials placed on record, particularly on comprehending the nature, gravity, and seriousness of the accusations levelled against the petitioner, there are *prima facie* materials to substantiate the petitioner's involvement in the crime, the petitioner's custodial interrogation is necessary and recovery is to be effected, I am not satisfied that the petitioner has made any exceptional ground to invoke the discretionary jurisdiction of this Court under Section 482 of the BNSS. 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

Jvt/6.8.2024

APPENDIX OF BAIL APPL.6120/2024

PETITIONER ANNEXURES :-

Annexure A1	**THE TRUE COPY OF FIR IN CRIME 587/2024 DATED 17/06/2024**
Annexure A2	**TRUE COPY OF ORDER IN CRL. M. C NO. 1213/2024 OF SESSIONS JUDGE, KOLLAM DATED 05-07-2024**