

**(2008) 08 JH CK 0086****Jharkhand High Court****Case No:** None

Mukesh Kumar Singh @ Mukesh

Singh Choudhary @ Mukesh

Singh

APPELLANT

Vs

State of Jharkhand

RESPONDENT

**Date of Decision:** Aug. 14, 2008**Acts Referred:**

- Explosive Substances Act, 1908 - Section 3, 4
- Penal Code, 1860 (IPC) - Section 147, 148, 149, 302, 307

**Citation:** (2008) 4 JCR 9**Hon'ble Judges:** Dilip kumar sinha, J**Bench:** Single Bench**Final Decision:** Dismissed**Judgement**

D.K. Sinha, J.

Heard the learned Counsel for the parties.

2. The petitioner is in custody since 8th July, 2007 for the alleged offence under Sections 147/148/149/452/380/307/302, IPC as also under Sections 3/4 of the Explosive Substance Act.

3. The prayer for bail of the petitioner was earlier dismissed as withdrawn with the liberty to the petitioner to renew his prayer after examination of few material witnesses by the order dated 18.3.2008 passed in B.A. No. 7581 of 2007.

Learned Sr. Counsel Mr. Roy submitted that though the petitioner is in custody since long but the charge could not be framed, so the prosecution did not produce any witness. In view of such exigency and that the petitioner is suffering from various ailments including liver cirrhosis, the petitioner has renewed his prayer for bail.

4. Pursuant to the order dated 2.5.2008, the Medical Officer, Deoghar after examination of the petitioner by his report on 19.7.2008 found the following:

(i) Liver enlarged and slightly tender, slight abdominal distension, puffiness face and odema feet.

(ii) The petitioner seems to be suffering from chronic liver cirrhosis and in the opinion of the Jail Doctor the petitioner needed specialised investigation and treatment for the said ailment in higher centre as his proper management was not possible inside the jail.

5. On the merit, Mr. Roy, submitted that after explosion of the hand bomb, when the informant with other witnesses including his wife rushed to the alleged place of occurrence where his son Uttam was lying in injured condition, the victim narrated that all the three brothers Guddu, Mukesh and Chotu hurled and exploded bomb upon him and he was no longer going to survive. The victim further narrated that whatever these three brothers had extended threat, fulfilled.

6. Mr. Roy, Sr. counsel, pointed out with reference to the statement of the wife of the informant Jamwanti Devi and one independent witness Nirmal Kumar Ram as contained in paras 22 and 19 of the case diary that they have given altogether different story that when they along with the informant and other witnesses arrived at the place of occurrence the victim Uttam had named only Guddu being his assailant and that the complicity of the petitioner Mukesh was not whispered by him, therefore, the introduction of the name of the petitioner and his another brother was super addition.

7. On the other hand, learned APP opposed the bail and submitted that the petitioner and others were identified in the light of torch and lantern, as this fact contained in paras 13, 14, 15, 16, 17 and 18 of the case diary. There was genesis of the occurrence and the motive behind such killing and therefore the petitioner do not deserve bail on the ground as well that the co-accused Sachida Nand Singh and Amit Kumar Singh have also been refused bail.

8. Having regard to the facts and circumstances of the case, keeping in view the gravity of the offence and the statement of the witnesses referred to hereinabove, I am not inclined and hence prayer for bail of Mukesh Kumar Singh @ Mukesh Singh Choudhary @ Mukesh Singh stands rejected.

However, I observe that in case of need, the Jail Authority may refer the petitioner Mukesh Kumar Singh @ Mukesh Singh Choudhary @ Mukesh Singh to any institutional hospital for better management of his ailment but with due permission of the Court concerned.

9. I further observe that the petitioner may renew his prayer for bail after examination of few material witnesses.