

In the Court of Sri Kumar Amit Manu
Additional Sessions Judge-I,
District- Banka(Bihar)
S.T. Case No.-465/2019
State of Bihar vs Arvind Kumar

FORM A

IN THE COURT OF ADDITIONAL SESSIONS JUDGE-I, BANKA Present:- Sri Kumar Amit Manu, Additional Sessions Judge-I, Banka [Date of Judgment:- 21-05-2026] [S.T. Case No. -465/2019] Case no.- C-7-273/07 Crime:- Under Section 27(d) of Drugs and Cosmetics Act, 1940	
INFORMANT	Sheo Narayan Prasad, Drug Inspector, Banka
REPRESENTED BY	Sri Sanjay Kumar Suman (Ld. Adl. P.P.)
ACCUSED	1. Arvind Kumar, s/o-Late Rameshwar Sahu, village- Musallharpur, Baripath, P.S.- Pirbahoul, Dist- Patna, aged about 53 years. (Hereinafter he will be referred as A-1)
REPRESENTED BY	Sri Deep Narayan Yadav, (Ld. Adv.)

FORM B

Date of Offence	29.10.2007
Date of Filing prosecution	29.10.2007
Date of Framing of Charges	22.12.2021
Date of commencement of evidence	10.03.2022
Date on which judgment is reserve	15.05.2026
Date of the Judgment	21.05.2026
Date of the Sentencing Order, if any	

In the Court of Sri Kumar Amit Manu
Additional Sessions Judge-I,
District- Banka(Bihar)
S.T. Case No.-465/2019
State of Bihar vs Arvind Kumar

Accused Details

Rank of the Accused	Name of Accused	Date of Arrest	Date of Release on Bail	Offences Charged with	Whether Acquitted or convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of section 428 Cr.P.C.
1	Arvind Kumar			27(d) of Drugs and Cosmetics Act, 1940	Acquitted	N.A	N.A

FORM C
LIST OF PROSECUTION/DEFENCE/COURT WITNESS
A. Prosecution

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS
PW 1	Subol Kumar Sinha	[other witness] Store in-charge in Civil Surgeon Office, Banka

B. Defene Witness, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS
NIL	Nil	

*In the Court of Sri Kumar Amit Manu
Additional Sessions Judge-I,
District- Banka(Bihar)
S.T. Case No.-465/2019
State of Bihar vs Arvind Kumar*

C. Court Witness, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS
Nil	Nil	

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution

Sr. No.	Exhibit Number	Description
1	Ext.- 1	Signature of Drug Inspector Shiv Narayan Prasad on letter regarding sampling of drugs

B. Defence:

Sr. No.	Exhibit Number	Description
1	Nil	

C. Court Exhibits

Sr. No.	Exhibit Number	Description
1	Nil	

D. Material Objects

Sr. No.	Material Object Number	Description
1	Nil	

J U D G M E N T

1. The accused A-1 namely Arvind Kumar stands charged under sections 27(d) of Drugs and Cosmetics Act, 1940

2. The prosecution case, in brief, is that the present complaint has been instituted by the State of Bihar through the Drugs Inspector, Banka,[Official complaint case] namely Shiv Narayan Prasad, who was duly appointed as Drugs Inspector by the Government of Bihar under Section 21 of the Drugs and Cosmetics Act, 1940 and was competent to institute prosecution under Section 32(1) of the said Act. It is alleged that on 31.07.2006, during the course of official inspection, the complainant Drugs Inspector drew samples of the drug namely “Alka Bandage Than (Non-Sterile)” size 20 mt. × 100 cm., Batch No. 34, manufactured in June 2006 and having expiry date May 2009, manufactured by M/s Blazon India, Musallahpur, Bari Path, Patna, from the store of the Civil Surgeon, Banka in presence of Shri Subol Kumar Sinha, Incharge Store Keeper-cum-Office Assistant, Civil Surgeon, Banka, in prescribed Forms 17 and 17-A under Section 22(b) of the Drugs and Cosmetics Act, 1940.

It is further alleged that after complying with all statutory formalities, one sealed portion of the sampled drug was sent to the Government Analyst, Bihar Drugs Control Laboratory (BDCL), Agam Kuan,

Patna through memo no. 316 dated 10.09.2006 in prescribed Form-18 for test and analysis. Upon examination, the Government Analyst, BDCL, Patna, vide memo no. 1215(GA) dated 22.12.2006 and report in Form-13, declared the sampled drug as “Not of Standard Quality”. Thereafter, the complainant Drugs Inspector informed the Civil Surgeon, Banka regarding the adverse test report and requested stoppage of further use of the said drug and also sought the purchase details of the same. Pursuant thereto, the Civil Surgeon, Banka furnished copy of purchase memo no. 31/11 dated 12.06.2006 showing procurement of the drug from supplier M/s Sun International, Exhibition Road, Patna.

The prosecution further alleges that thereafter the complainant Drugs Inspector communicated with the supplier M/s Sun International, Patna and sought purchase details and explanation regarding the adverse report. In response, the supplier furnished the purchase memo, sale and purchase details and authority letter issued by manufacturer M/s Blazon India, Patna. Thereafter, the complainant Drugs Inspector sent notice along with copy of the Government Analyst report and a sealed portion of the sampled drug to the manufacturer M/s Blazon India, Patna calling upon it to furnish its explanation regarding the declaration of the sampled drug as “Not of Standard Quality”. It is alleged that the manufacturer accepted having manufactured and supplied the sampled drug through its authorized

dealer M/s Sun International, Patna and disclosed the names of its Manufacturing Chemist, namely Arvind Kumar, and Analytical Chemist, namely Rameshwar Sahu. According to the prosecution, the sampled drug having been declared “Not of Standard Quality” by the Government Analyst, the accused persons, being the Director of M/s Blazon India, the Manufacturing Chemist and the Analytical Chemist, were involved in manufacture and sale of a drug not conforming to prescribed standards, thereby committing offences punishable under Sections 18(a)(i) and 27(d) of the Drugs and Cosmetics Act, 1940.

3. On the basis of official complaint, this complain case bearing C-7-273/2007 has been registered under sections 27(d) of Drugs and Cosmetics Act, 1940, against accused person and subsequently cognizance u/s 27(d) of Drugs and Cosmetics Act, 1940, was taken on 30.11.2007 by Learned CJM, Banka.

4. On 22.12.2021 Charge against accused person namely Arvind Kumar, was framed under section 27(d) of Drugs and Cosmetics Act, 1940, was read over to the accused person to which he pleaded not guilty and claimed to be tried.

5. On 15.04.2026 statement of accused persons has been recorded under section 313 of Cr.P.C in which he denied the case of the prosecution and claimed to be innocent.

6. Defence case in brief is denial of the entire occurrence and innocence of the accused person.

7. Now, the point for determination arises as to whether prosecution has been able to bring home the guilt of the accused person beyond the shadow of reasonable doubts?

FINDINGS

8. In order to prove its case, the prosecution has examined only one witness in this case namely:-

PW-1 Subol Kumar Sinha

Prosecution has also produced certain documents as documentary evidence, which are as follows:-

Ext.-1- Signature of Drug Inspector Shiv Narayan Prasad on letter regarding sampling of drugs

9. The defence has not adduced any oral evidence nor any documentary evidence in this case.

10. Now, coming to the evidence of the prosecution witness:-

PW-1 Subol Kumar Sinha, who is Store in-charge in Civil Surgeon Office, Banka and in his examination-in-chief he has stated that on

29.10.2007, bandages arrived at the C.S office, supplied by Sun International Company and Sampling of which was conducted by Drug Inspector Shivnarayan Prasad. When the sample report arrived, it was determined that the bandages were of substandard quality. The sample test report came from the Bihar Drug Control Laboratory, Patna. A case was registered in this matter. He further stated that the sample receipt bears his signature and that of Drug Inspector Shivnarayan Prasad. He further recognize his signature which is exhibited as P-1/PW-1. The bandages were manufactured by Blazen India Company, Mussalarpur, Baripath, Patna, with license number 10015/1992. Drug Inspector Shivnarayan Prasad prepared the prosecution papers against the company and submitted them to the Honorable Court. Every bandage that comes, is maintained in a register. He further states that he does not recognize any of the accused.

In cross-examination he has deposed that the only bandage sampled at my store that day was from Sun International. I have never had the opportunity to visit either Sun International or Balzer. The item sampled is no longer available. He further deposed that Drug Inspector's office and the Civil Surgeon's office are separate but located in one campus. I have no connection to any registers in the Civil Surgeon's office. The sampling report first came to the Drug Office and he had personal knowledge of that report.

He further deposed in para 5 that sampling was

conducted in 2006, and the report came back a year later. He has no personal knowledge of the supplier's supply of materials to my store. The Balejan company never shipped materials directly to the Civil Surgeon. He never had any contact with the manufacturing company or supplier.

ARGUMENTS

11. Learned Defence counsel has submitted that in this case material evidence has not been produced by the Prosecution. Prosecution has failed to produce the drug inspector, the report which says that the said drugs supplied were spurious and of sub standard quality. Per contra, Learned Prosecution, without stating the details, argues that one witness produced has supported the case of the prosecution.

DISCUSSIONS

12. In order to secure prove the ingredients of offence under Section 27(d) of the Drugs and Cosmetics Act, 1940, the prosecution is required to prove beyond reasonable doubt that the accused was manufacturing, stocking, selling, distributing or possessing the concerned drug or cosmetic in contravention of the provisions of the Act or Rules framed thereunder. The allegation against the accused is supply of sub standard Bandage. The prosecution must establish the legality of inspection, seizure and sampling procedure conducted

by the Drug Inspector, proper sealing and safe custody of the samples, compliance of Sections 22 and 23 of the Act, and the chain of custody of the seized articles. In the present case, prosecution has failed to prove the seizure, sampling by the drug inspector. It is alleged in the complaint itself that sample drug was sent to the Bihar Drugs control Laboratory Agam kuan, Patna 07, however, the prosecution has failed to prove that samples were sent. The report of the Government Analyst must also be duly proved and connected with the very same sample allegedly seized from the accused but the analyst report has not been proved by the prosecution. Apart from this, the prosecution must establish the conscious possession, control or involvement of the accused with the offending articles and also prove the specific provision or rule alleged to have been violated. The same is also not proved by the prosecution. Only one witness PW1-Subol Kumar Sinha has been examined, who is the store in charge in civil surgeon office. He has exhibited his signature on sample but admitted at Para 3 of his cross examination that he has not done the sampling. The drug inspector has performed sampling, who has not been produced by prosecution as evidence. Thus, considering the fact that prosecution has failed to produce material witness such as drug inspector, Government analyst, who are material witness in this case, the prosecution case fails miserably.

Therefore, in this case, the prosecution has completely failed to to prove the seizure, sampling procedure,

*In the Court of Sri Kumar Amit Manu
Additional Sessions Judge-I,
District- Banka(Bihar)
S.T. Case No.-465/2019
State of Bihar vs Arvind Kumar*

analyst report, chain of custody, ownership or possession of the accused, thus the prosecution has miserably failed to prove its case beyond the shadow of reasonable doubts.

ORDER

In the light of above said discussion the accused **A-1** namely **Arvind Kumar**, is hereby acquitted from the charge leveled against him u/s 27(d) of Drugs and Cosmetics Act, 1940. He is already on bail, hence he is also discharged from the liabilities of bail bonds.

File to be consigned to the record room.

(Dictated and after correction signed and then pronounced by me in the open court on this 21st May, 2026)

(Kumar Amit Manu)
Addl. Sessions Judge-I
Banka
Dated-21.05.2026

(Kumar Amit Manu)
Addl. Sessions Judge-I
Banka
Dated-21.05.2026