

District- Banka(Bihar)
G.R. Case no.- 3384/2017
State of Bihar vs Raju Kumar Rai.

FORM A

IN THE COURT OF EXCLUSIVE SPECIAL JUDGE EXCISE Court No.-1

Present:- Sri Kumar Madhvendra,
Exclusive Spl. Excise judge, Court -1, Banka
[Date of Judgment:- 19-05-2026]
[G.R. Case no. - 3384/2017]
F.I.R. No.:- 256/2017
Crime:- Under Sections- 30(a) of Bihar Prohibition and Excise Act
2016
Police Station:- **Bounsi**

INFORMANT	Mr. Shivanand Yadav
REPRESENTED BY	Mr. Awadhesh Kumar Singh (Ld. Spl. P.P.)
ACCUSED	1. Raju Kumar Rai , S/o- Bhagirath Rai, village -sarmaspur Kotha, P.S.- Lodipur, Dist- Bhagalpur.
REPRESENTED BY	Mr. Anant Ram Pandey (Ld. Adv.)

FORM B

Date of Offence	16.10.2017
Date of F.I.R.	16.10.2017
Date of Chargesheet	13.12.2017
Date of Framing of Charges	26.06.2024
Date of commencement of evidence	26.06.2024
Date on which judgment is reserve	15.05.2026
Date of the Judgment	19.05.2026
Date of the Sentencing Order, if any	

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	Raju Kumar Rai			30(a) of Bihar Prohibition and Excise Act 2016	Acquitted	N.A	

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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	Pradip Kumar Banarji	I.O.
PW 2	Dinesh Kumar	Member of raiding team.

B. Defene Witness, if any:

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

C. Court Witness, if any:

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

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution

Sr. No.	Exhibit Number	Description
1	P-1/P.W.1	Permission for liquor test.
2	P-2/P.W.1	Liquor test report.
3	P-3/P.W.1	D.T.O. report.
4	P-4/P.W.1	Charge-sheet.

B. Defence:

Sr. No.	Exhibit Number	Description
1	Nil	Nil

C. Court Exhibits

Sr. No.	Exhibit Number	Description
1	Nil	Nil

D. Material Objects

Sr. No.	Material Object Number	Description
1	Nil	Nil

J U D G M E N T

1. The above named accused persons stands charged under section

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30(a) of Bihar Prohibition and Excise Act 2016

2. The case of the informant in brief as made out in self statement of the informant is as follows:-

On 16.10.2017 at about 08:00 P.M., he was conducting vehicle checking near Gurudham Petrol Pump along with other police personnel. During checking, one light coloured car bearing registration no. DL 3CAG-2510 was seen coming. On seeing the police vehicle, the driver attempted to flee away, but with the help of police force he was apprehended. Upon interrogation, he disclosed his name as Raju Kumar Rai. The informant further stated that on search of the said vehicle, ten cartons were recovered. Out of the same, 160 bottles of foreign liquor of 375 ml each and 138 bottles of foreign liquor of 180 ml each were recovered from the vehicle.

3. On the basis of written report, Police investigated the case. After investigation Investigating Officer submitted the charge-sheet under sections 30(a)/32(2) of Bihar Prohibition and Excise Act 2016 on 13.12.2017 against accused namely Raju Kumar Rai and accordingly cognizance of the offence was taken and the accused person was summoned to face the trial.

4. On 26.06.2024 Charge under section 30(a) of Bihar Prohibition and Excise Act 2016 framed, read over to the accused person to which he pleaded not guilty and claimed to be tried.

5. On 30.04.2026 statement of accused parson 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 of denial of the entire occurrence and innocence of the accused persons.

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. The prosecution has produced two witness to substantiate the charge against the accused.

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P.W. 1 Pradip Kumar Banarji (I.O.)

P.W. 2 Dinesh Kumar (Member of raiding team.)

The prosecution has also proved certain documents which are as follows:-

P-1/P.W.1 Permission for liquor test.

P-2/P.W.1 Liquor test report.

P-3/P.W.1 D.T.O. report.

P-4/P.W.1 Charge-sheet.

The defence has not given any defence witness and has not produced any documentary evidence in support of his case.

9. P.W. 1, who is the I.O. of this case, has stated in his examination-in-chief that on 16.10.2017 he was posted at Bounsi Police Station and on the same day he took charge of investigation of Bounsi P.S. Case No. 256/17. After taking charge of investigation, he entered the FIR in the case diary. He further stated that he inspected the seizure list and entered the same in the case diary. Thereafter, he kept the accused in custody, re-examined the case records and safely kept the seized vehicle in the police station premises. He also recorded the statement of FIR witness Shivnandan Kumar and mentioned the same in the case diary. According to him, all the witnesses supported the occurrence. He further stated that he proceeded to the place of occurrence for inspection. He further deposed that after obtaining permission from the Court, he sent the seized liquor for chemical examination. He identified the forwarding application bearing his signature and handwriting, which was marked as Exhibit P.1/P.W.1. He further stated that the chemical examination report of the foreign liquor was received from Patna and the same was submitted before the Court. He identified the said report, which was marked as Exhibit P.2/P.W.1. He also stated that he obtained the registration particulars of the seized vehicle from the D.T.O and submitted the same before the Court. He identified the said document, which was marked as Exhibit P.3/P.W.1. He further deposed that after completion of investigation, he submitted charge-sheet against accused Raju Kumar Rai under Section 30(a)/32(2) of the Bihar Prohibition and

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Excise Act. He identified the charge-sheet bearing his signature and handwriting, which was marked as Exhibit P.4/P.W.1. In his cross-examination, He stated that after taking charge of investigation, he first entered the FIR in the case diary and thereafter entered the seizure list. He admitted that ten cartons containing foreign liquor were seized. Out of the same, six cartons contained 144 bottles of 375 ml Royal Stag foreign liquor, one carton contained 160 bottles of 375 ml Royal Stag foreign liquor, and three cartons contained 138 bottles of 180 ml Royal Stag foreign liquor. He further stated that two cartons contained 96 bottles of 180 ml Royal Stag foreign liquor bearing the label "For Sale in Haryana Only". He further stated that he visited the place of occurrence along with the chowkidar and found traces of liquor there. He admitted that he did not record the statement of any independent witness. He also admitted that he did not prepare any separate list of witnesses as required under Section 100 Cr.P.C. He further deposed that he submitted the charge-sheet under the orders of senior officers including the DSP and SP. He also stated that the seized liquor bottles were labelled "Only for Sale in Haryana". He further stated that the accused who was apprehended by the case informant was produced before the Court in judicial custody by him. He stated that during investigation, warrant of arrest was sought against accused Pawan Tanti and further investigation against him was continuing.

10. P.W. 2, who is the Member of raiding team of this case, has stated in his examination-in-chief that on 16.10.2017 he was posted as A.S.I at Bounsi Police Station. On that day, he along with S.H.O Shivnandan Yadav had gone for vehicle checking near Gurudham Petrol Pump situated on Bounsi-Hansdiha road. During checking, one white coloured car was seen coming from the side of Bounsi Police Station at a high speed. On suspicion, signal was given to stop the vehicle, but the driver did not stop and tried to flee away. Thereafter, with the help of police force, the vehicle was intercepted and the driver was apprehended. He further stated that on inquiry, the driver disclosed his name as Raju Kumar Rai. On demand of vehicle papers, the driver failed to produce any document. Thereafter, search of the vehicle was conducted and ten cartons containing foreign liquor were recovered from the dicky of the vehicle. According to the witness, six cartons contained bottles of 375

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ml capacity and four cartons contained bottles of 180 ml capacity. The total quantity of recovered foreign liquor was about 84.840 litres. He further deposed that at the place of occurrence itself, the seizure list was prepared by Shivanandan Yadav in presence of independent witnesses. He further stated that the formal seizure memo was also prepared at the place of occurrence. He further stated that on the basis of seizure, accused Raju Kumar Rai was arrested and along with the seized articles he was brought to the police station. He also stated that he had given his statement to the I.O. Pradip Kumar Banarji during investigation of the case. In his cross-examination, he stated that he was not the informant of the case and the liquor was seized from the vehicle. He further stated that the two seizure witnesses, namely Yogendra Paswan and Dinesh Mandal, were local persons residing nearby, though he did not remember their exact addresses. He further admitted that only accused Raju Kumar Rai was present in the vehicle as driver and no other person was travelling in the vehicle. He also stated that the accused had told him that the vehicle did not belong to him and that the Investigating Officer had conducted inquiry regarding the ownership of the vehicle. He further stated that he himself had not conducted the search and that the search was conducted by the informant. He also stated that one Samsung mobile phone was recovered from the pocket of accused Raju Kumar Rai. According to him, liquor was recovered from the dickey of the vehicle and no other illegal article was recovered from the possession of the accused.

11. Now entering into the appreciation of evidences on careful examination of the evidence of the prosecution case is based upon alleged recovery of foreign liquor from a vehicle during vehicle checking conducted near Gurudham Petrol Pump on 16.10.2017. The informant and PW-2 claimed that the accused Raju Kumar Rai was apprehended while driving the vehicle and that foreign liquor was recovered from the dickey of the said vehicle. PW-1, being the Investigating Officer, supported the formal part of investigation and proved the documents brought on record. However, on careful scrutiny of the evidence, several material contradictions and procedural lapses appear in the prosecution case. PW-1 admitted in his cross-examination that no independent witness was examined during investigation and no separate witness list

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as required under Section 100 Cr.P.C. was prepared. Though the prosecution claimed that seizure witnesses were present at the place of occurrence, none of the independent seizure witnesses has been examined before the Court. Non-examination of independent witnesses casts serious doubt upon the fairness of seizure and recovery. Further, material contradictions are found regarding the quantity and description of the seized liquor. PW-1 gave varying details regarding the number of cartons and bottles recovered and further admitted that he could not state the exact total quantity of seized liquor. Such inconsistency creates doubt regarding the actual recovery alleged by the prosecution. PW-2 also admitted in his cross-examination that the accused had stated that the vehicle did not belong to him. No convincing material has been brought on record by the prosecution to establish ownership or conscious possession of the seized liquor by the accused. Mere presence of the accused as driver of the vehicle, in absence of reliable evidence regarding conscious possession, is not sufficient to hold him guilty. It further appears that the Investigating Officer did not follow the mandatory procedural safeguards during search and seizure. No local independent witness has supported the prosecution case. The entire prosecution case rests only upon official witnesses, whose evidence suffers from material omissions and inconsistencies. It is a settled principle of criminal jurisprudence that suspicion, however strong, cannot take the place of proof. The prosecution is required to prove its case beyond all reasonable doubt. In the present case, the evidence adduced by the prosecution does not inspire full confidence and the benefit of doubt must go in favour of the accused. In this case FIR lodged in the year 2017. After investigation police submitted charge sheet on 13.12.2017 and charge was framed on 26.06.2024 and several opportunities were given to the prosecution but prosecution failed to examine the key witnesses i.e., Informant and seizure list witness in this case. It is further to necessary to mention here that no witness has stated that the instructions given in section 82 of Bihar Prohibitions and Excise Act have been complied with, which provides to inform the District Magistrate and Superintendent of police within 24 hours of any search and seizure made by the officers.

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12. Hence the prosecution has miserably failed to prove the charge leveled against the accused person beyond the shadow of all reasonable doubts.

Accordingly, it is hereby

ORDERED

That the accused persons namely Raju Kumar Rai is given benefit of doubt due to lack of evidence and in the result, the accused namely Raju Kumar Rai is hereby acquitted from the charges leveled against him U/s 30(a) of Bihar Prohibition and Excise Act 2016. He is already on bail, hence his bailors are also discharged from the liabilities of their bail bonds respectively.

File to be consigned to the record room.

Let a copy of this judgment be sent to the District Magistrate.

O/c is directed to issue a letter to concern P.S. for return all unexecuted process.

(Dictated, corrected, signed and pronounced by me in the open court)

Kumar Madhvendra

(Kumar Madhvendra)
Excl. Spl. Excise court no.-1
Banka

Dated- 19.05.2026

Kumar Madhvendra

(Kumar Madhvendra)
Excl. Spl. Excise court no.-1
Banka.

Dated- 19.05.2026