

**Form A****In the Court of the Civil Judge cum Judicial Magistrate First Class,  
Tharad**

Judgment Date	16/04/2026
Criminal Case No.	225/2026
Ex No	13
Section	Gujarat Prhibition Act Sections 65(A)(A), 116(B)
F.I.R No	11996006260120/2026
Police Station	Police Station Tharad
COMPLAINANT	THE STATE OF GUJARAT
REPRESENTED BY	LD. A.P.P. R.M. Gamit
ACCUSED	Kiranbhai Mevabhai Majirana
REPRESENTED BY	Mr. S. D. Desai

**Form B**

DATE OF OFFENCE	05-02-2026
DATE OF FIR	05-02-2026
DATE OF CHARGESHEET	10-02-2026
DATE OF FRAMING OF CHARGES	10-02-2026
DATE OF COMMENCEMENT OF EVIDENCE	16-03-2026
DATE ON WHICH JUDGMENT IS RESERVED	-
DATE OF THE JUDGMENT	16-04-2026

**J U D G M E N T**

1. Accused of this case has been charged under the provisions of Sections 65(A)(A), 116(B) of The Gujarat Prohibition (Amendment) Act, 2016. The brief facts of case are as under:-

According to the Complainant, the accused had illegally kept

country liquor in his possession without any pass or permit, which was found during the checking and the complainant had seized 98 Bottle of Country Liquor valued @ Rs. 19094/- on Dated: 05/02/2026 and complainant has lodged the complaint. After completion of the Investigation, the charge-sheet for alleged commission of offenses came to be filed against accused, which in turn, has been sent to this court for the adjudication as per law.

2. That, this court has took cognizance in the matter and has issued process to the accused, which was duly served upon the accused and in pursuance thereof, the accused has appeared before this court. Thereafter, as the case is exclusively triable by this court, the accused was given copies of charge-sheet along with statements and documents, in compliance to the provisions of Section 230 of Bhartiya Nyay Suraksha Sanhita (BNSS) 2023 and Thereafter, the charge was framed against the accused for alleged commission of offenses vide Exh.04 and the accused abjured his culpability and claimed to be tried, his plea was recorded at Exh.05. The prosecution was asked to lead evidence.
3. The prosecution has given following oral as well as documentary evidences on record.

**--:ORAL EVIDENCES:-**

Sr. No.	PARTICULARS	Exh.
1.	Deposition of the Original Complainant Mr. Dipakbhai Nanjibhai Chaudhary	07
2.	Deposition of the panch witness Mr. Vardhabhai Savaji Rajput	09
3.	Deposition of the Mr. Hirabhai Sarengabhai Rajput	11
4.	Deposition of the Investigating Officer Mr. Bharatbhai Valabhai Prajapati	12

**--:DOCUMENTARY EVIDENCES:--**

<b>Sr. No.</b>	<b>PARTICULARS</b>	<b>Exh.</b>
1.	Complainant	08
2.	Punchnama	10

4. After completion of the evidence of the prosecution, the statement of the accused under Section 351 of Bhartiya Nyay Suraksha Sanhita (BNSS) 2023 was not recorded because, the court has not received any evidence against the accused. Hence, the statement of the accused was not recorded.
5. Thereafter, Id. A.P.P. Mr. R.M. Gamit for the prosecution and Id. Advocate Mr. S. D. Desai for the defense have made their oral submissions.
6. That, following issues are necessary for the just determination of the offense.

<b>Sr. No.</b>	<b>ISSUES</b>
1.	Whether the prosecution, beyond reasonable doubt, proves that, during the checking, the accused had illegally kept 98 bottle of Country Liquor valued @ Rs. 19094/- in his possession without any pass or permit, which was found during the checking on dated 05/02/2026 at about 14:30 and thereby, he has committed an offense punishable under the provision of Sections 65(A)(A), 116(B) of The Gujarat Prohibition (Amendment) Act, 2016?
2.	What order?

7. My findings to above mentioned issues are as under:-

Sr. No.	FINDINGS
1.	In Negative.
2.	As per final order.

**-::Reasons::-**

8. The prosecution has examined the witnesses of panch Mr. Vardhabhai Savaji Rajput vide Exh. No. 09 and Mr. Hirabhai Sarengbhai Rajput vide Exh. 11, According to them, Police has took their signatures in a ready-made panchnama, no panchnama is prepared in their presence and no muddamal liquor is recovered in their presence. They recognize only their signatures in the panchnama. The witnesses have turned hostile and not supported the case of the prosecution even after cross-examined by the prosecution. Hence, panchnama produced vide Exh. 10 does not proved from deposition of the panch.
9. The deposition of the complainant has recorded vide Exh- 07 & complaint has produced vide Exh-08. He deposed as per fact of the complaint. During the cross-examination, he admitted that, after the calling of panch witnesses, a panchnama has to be drawn, he also admitted that the names of the panch witnesses were not mentioned in the complaint and the place of incident is a public place. He also admitted that, he has to maintain the patrolling book and note it down regularly but, he has not brought the patrolling book.
10. The prosecution has also examined Mr. Bharatbhai Valabhai Prajapati vide exh. 12, an Investigating Officer of the case. On perusal of his entire oral testimony, it appears that, he only states with regards to the acts done by him after he received the investigation of the offense. After the completion of investigation there is enough evidence against the present accused, he filed charge-sheet against the accused in the Court.

### **Evaluation of Evidence**

11. Thus, looking at the evidence on record, the accused had illegally kept country liquor in his possession without any pass or permit, which was found during the checking & Country Liquor seized in the presence of panch witnesses. The panch witnesses have denied the fact of panchnama and the panch have only signed on the ready-made panchnama, no panchnama is prepared in their presence. Looking to the complaint the name of the panch witnesses were not mentioned, if they have informed the panch witnesses before conducting the checking then they would have mentioned it in the complaint but, nothing regarding the said fact is mentioned in the complaint and no clarification has been given regarding the same. Further, the place of incident is public place but, they have not taken statement of any independent witness. Further, the name of panch witnesses are not mentioned in the complaint and therefore, it is doubtful that the muddamal is recovered in the presence of panch. Considering the charge sheet in this case, the complainant has taken only the police personnel as the witnesses who are working with the complainant and the Investigating Officer. The place of incident is public place and considering the time of occurrence, the public interaction was natural at the place of incident, but in spite of that they have not take any independent witness but only taken police personnel as a witness. Therefore, after considering the evidences, it is clear that, the investigating officer could not prove that, the liquid found in the possession of the accused was Country Liquor and hence, it is doubtful that the investigation of the complaint was done impartially and inaccurately.

Above all discussion and as per Hon'ble High court's principal for evidence of burden of proof,

“ An accused for discharging the burden of proof placed upon him under a statute need not examine himself. He may discharge his burden on the basic of the material already brought on records. An accused has constitutional rights to maintain silence. Standard of proof on part of an accused and that of the prosecution in a criminal case is different.”

Furthermore, whereas prosecution must prove the guilt of an accused beyond all reasonable doubt, the standard of proof so as to prove a defense on the part of an accused is “Preponderance of probabilities” Inference of Preponderance of probabilities can be drawn not only from the material brought on records by the parties but also by reference to the circumstances upon which he relies.

So, after considering the facts and circumstances of the present case it is found baseless and doubtful that the accused had illegally kept country liquor in his possession without any pass or permit, which was found during the checking and as the panch witnesses have denied the fact of panchnama and the panch have only signed on the ready-made panchnama and it is also doubtful that the investigation of the complaint was done impartially and inaccurately and the prosecution has failed to prove the case against the accused. Hence, I answer issue No. 1 in Negative and for issue No. 2 following order is passed in the interest of Justice:-

**-::ORDER::-**

1. In view of the provisions of Section 271(1) of the Bhartiya Nyay Suraksha Sanhita, 2023, the accused Kiranbhai Mevabhai Majirana is acquitted from the charges leveled against him for alleged Commission of offenses punishable under the provisions of Sections 65(A(A), 116(B) of The Gujarat Prohibition (Amendment) Act, 2016.
2. The Muddamal Country Liquor is hereby ordered to be destroyed after

appeal period.

3. The bail bond along with a surety of the like amount submitted earlier by the accused are ordered to continue for Six months under Section 480 of the Bhartiya Nyay Suraksha Sanhita (BNSS) 2023.

Order passed and pronounced in Open Court on this 16<sup>th</sup>Day of April, 2026.

Date: 16/04/2026

Place:Tharad

(Mr. R.K. Jani)

Judicial Magistrate First Class,

Tharad

**Judge Code: GJO1658**