

Exhibit -

Received on	15/04/2025		
Registered on	15/04/2025		
Decided on	10/07/2026		
Duration	Year	Months	Days

IN THE COURT OF ADDL. CHIEF JUDICIAL MAGISTRATE
AT JHALOD, DAHOD.

Criminal Case No.1193/2025

State of Gujarat

.....*Prosecution*

Versus

Vishalbhai @ Vijay Kalsingbhai Bhabhor

Age: 24; Occupation: Agriculture

R/o Munsokhla, Holi Pipla Faliya,

Ta. Jhalod, Dist. Dahod.

.....*Accused*

JUDGMENT

1. The prosecution case in brief is that on 12/06/2024, 240 bottles of foreign liquor whose value is Rs.28,584 was found in the possession of the accused. Regarding this complainant filed an FIR.
2. After completion of investigation, the chargesheet was filed and the accused appeared with his Advocate before

this Court in response to the summons. After following the due process of law, the particulars of the offence punishable under Section 659(E) and 116 - B of the Gujarat Prohibition Act was read over and explained to the accused and charge framed vide Exh. 03 and plea recorded vide Exh. 04 and claimed to be tried, whereupon the matter set at stage for prosecution evidence.

3. In order to establish the guilt of accused, the following point of determination emerged before the Court:

a) Whether on 12/06/2024, 240 bottles of foreign liquor whose value is Rs. 28,584/- was found in the possession of the accused and thereby he has committed offence u/s. 65(E) and 116 - B of Gujarat Prohibition Act, 1949?

b) What order?

4. My finding to the above points of determination are as following:

a) In Negative

b) As per final order

5. My reasons for the above finding are as following:

6. In order to establish guilt of accused, prosecution produced following evidence:-

The panch witnesses PW 2 i.e. Riju @ Rizwan

Gafurbhai Malek is examined vide Exh.12. He has not supported the panchnama produced vide Exh.13 and stated that he passed his signature on prepared panchnama and he has no knowledge of the panchnama.

PW 1 i.e Alkeshbhai Medhabhai Damor is the de facto complainant. He in his examination in chief stated that he along with panch witnesses raided at the residence of the accused where accused was not there, and on searching the house, India made foreign liquor total 240 bottles worth Rs.28,584/- was found and seized by them and complaint was registered against him under section 65(E) and 116 - B of Gujarat Prohibition Act. He identified his signature in the complaint vide Exh.11. He has deposed that he identified the accused who was present in the Court that day. The cross-examination of the complainant yielded no fruitful results for the defence.

7. Now, here it is vital to take into consideration the Gujarat Prohibition (Liquor Samples and Determination of Quantity Seized Liquor) Rules, 2012

3. Collection of Liquor Sample. -(1) The samples of liquor shall be collected in the following manner, namely;

(a) The Prohibition Officer or the Police Officer shall take two samples of 200 ml. from a container 01' in Case of more than one container, from each such container containing liquor, in the presence of two witnesses (panchas);

(b) in the case of liquor contained in branded bottles, two bottles of each brand shall be taken batch-wise, from the boxes which contain such bottles, in the presence of two witnesses (panchas). In case of changes in the brand or batch, two bottles of liquor of each such brand shall be taken separately, as sample.

(2) Out of two samples referred to in sub-rule (1), one sample shall

be sent to the Testing Officer and the another sample shall be kept' in the custody of the officer who has seized the liquor, till the matter' is finally decided by the Court and thereafter the sample kept in the custody of the officer shall be destroyed in accordance with the procedure prescribed in this behalf.

4. Signature, slips and writing of C.R.N. on Sample of Liquor :- *The Prohibition Officer or the Police Officer shall take signature of the witnesses (panchas) on labels of each such sample or bottle of seized liquor and on the slips to be affixed on the seals of each bottle and shall also write the Crime Register Number (C.R.N.) of the case on labels of each such sample or bottle.*

5. Sample be sent for Analysis :- *The Prohibition Officer or the Police Officer who has seized the liquor shall send the sample along with the advice in Form-A, immediately without any loss of time to the Forensic Science Laboratory of the State for detailed analysis report.*

6. Testing of Liquor :- *The Testing Officer shall carry out detailed analysis of the samples of the liquor sent under rule 5 without any delay. He shall take adequate steps and care and see that no tampering with the articles or the contents of the articles takes place.*

7. Identity of Liquor Sample in the Court :- *The Prohibition Officer or the Police Officer who has seized the liquor shall prove the identity of the sample of liquor produced before the Court, to be the same as was seized and also that the same sample was sent with seals intact to the Testing Officer with Form A.*

8. Testing Report and Certificate of Liquor Sample :- *The Testing Officer shall, after carrying out the detailed analysis of the samples of the liquor sent under rule 5, prepare the detailed analysis report of the samples of the liquor carried out by him in Form B and shall issue the certificate to this effect in Form B. He shall send the certificate in original to the Prohibition Officer or the Police Officer concerned and retain a copy thereof for his record.*

Here, in the present case total 180ml has been kept as sample. Now, this is a clear breach of the rule 3 of Gujarat Prohibition (Liquor Samples and Determination of Quantity Seized Liquor) Rules, 2012, that the Police Officer must take two samples of 200 ml., but here only 180 ml of single sample has been collected. Further, there is nothing on the record that the said sample has been sent to testing officer along with Form A, with seals, to the

Forensic Science Laboratory of the State for detailed analysis report as mandatory required by the rule 5. Further, no analysis report has been submitted before this court.

Here it is vital to take into Consideration the guidelines given by the Hon'ble Supreme Court in **Satish Mehra Vs Delhi Administration and others 1996(3) Crimes(85)SC**

“When the Judge is fairly certain that there is no prospect of the case ending in conviction the valuable time of the Court should not be wasted for holding a trial only for the purpose of formally completing the procedure to pronounce the conclusion on a future date.”

In the matter in hand as there is no prospect of proving the guilt of accused beyond reasonable doubt, the procedural mandatory requirements are not complied with. It is almost certain that the trial would only be an exercise in futility or a sheer waste of time. Thus, no other witness has been examined in the present case.

Now, as the mandatory requirements of rules of Gujarat Prohibition (Liquor Samples and Determination of Quantity Seized Liquor) Rules, 2012 are not been followed, in such a condition it could be conveniently stated here that the ingredients of section 65(E) and 116 - B of The Gujarat Prohibition Act, 1949 has not been proved beyond reasonable doubt by the prosecution.

8. In view of the above stated facts, findings, reasons, and settled principles of law, this Court is inclined to answer the point of determination in negative and pass the

following final order :-

-: FINAL ORDER :-

- I. The accused is acquitted from the alleged offences punishable under section 65(E) and 116 - B of The Gujarat Prohibition Act, 1949, as the prosecution has failed to prove its case beyond reasonable doubt.
- II. The Muddamal Liquor to be destroyed after appeal period.
- III. The bail bonds given by accused to be continue till appeal period in compliance of Section 437-A, Cr.PC.

Signed, pronounced and declared in the open court.

Date: 10/07/2026
Place: Jhalod

(Dr. Inderjeet Singh Bhati)
Addl. Chief Judicial Mag., Jhalod.
GJ 01334