

ORDER BELOW EXHIBIT-1

1. Heard, Pursued the present application, chargesheet and case papers. The prosecution case in brief is that, accused was found in drunk condition in public place and hence charge sheet is filed against him under section 66(1)b and 85(1) of Gujarat Prohibition Act 1949.
2. Now here it is vital to take into consideration section 85(1) of Gujarat Prohibition Act which read as:-

(1)“*Whoever in any street, thoroughfare, public place, in any place to which the public have or are permitted to have access, is drunk and creates nuisance, takes up a quarrel with any person, uses foul or abusive language, indulges in fight with others, misbehaves with any women or behaves obscenely, shall, on conviction, be punished with imprisonment for a term which may extend to three years but which shall not be less than one year and with fine.*”

Here, in the present matter even if the FIR and chargesheet are taken on their face value to be correct, there is nothing on record to prove that accused has created nuisance or took up a quarrel with any person or used foul or abusive language or indulged in fight with others or misbehaved with any woman or behaved obscenely. Thus, this court believes that the act of accused will not come into the purview of section 85(1) and thus, cognizance under section 85(1) of Gujarat Prohibition Act cannot be taken against the present accused by this court.

3. Now for section 66(1)(b) of Gujarat Prohibition act, person is liable for punishment if he Consumes or uses any intoxicant. Here in the present matter Form “A” has been submitted along with the case papers which shows that a registered medical practitioner has examined the accused but here Investigation officer has not submitted form “C”, issued by FSL, even after laps of so much of time period and which is mandatory as per Gujarat Prohibition Rules. Here at this stage no detailed evaluation of the materials or meticulous consideration of Form “C” can be undertaken.

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.”

4. In the matter in hand as there is no prospect of proving the guilt of accused beyond reasonable doubt, the procedural 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, following order is passed: -

FINAL ORDER

- I. The proceeding is hereby stopped and accused is acquitted from the offence under section 66(1)(b) of Gujarat Prohibition Act 1949 as per section 281 of BNSS.
- II. It will be open to the investigation officer to submit Form 'C' and to again file the chargesheet against the accused as per section 337(5) of the BNSS.

Date: 11/07/2026
Place: Jhalod

(Indrajeet Singh Bhati)
Add.Sr. Civil Judge & A.C.J.M.,
Jhalod