


GJPM050016142025 	Date of Filing	16.10.2025
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	Decided on	08.05.2026
	Duration	Year Month Days

**IN THE COURT OF ADDITIONAL CHIEF JUDICIAL  
MAGISTRATE,  
SHAHERA, DIST. PANCHMAHALS**

**CRIMINAL CASE NO. 1201/2025**

**Exh-**

**Complainant:**

Government of Gujarat.

**VERSUS**

**Accused:**

Samantsinh Kalubhai Pagi  
Age: 49,  
At. Mangalpur, Ta. Shahera, Dist. Panchmahals.

**SUBJECT:** Offense U/s 65AA of Gujarat Prohibition Act.

**APPEARANCE:**

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Learned APP For Prosecution : Ms. K. N. Parmar

Learned Advocate for Accused : Mr. R. U. Pagi

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

1. The brief facts of the prosecution case are that, on 16.05.2025 informer- Constable- Navghanbhai Samantbhai with other police personnel were on patrolling, meanwhile got a tip off that the accused person Samantsinh Kalubhai Pagi is illegally possessing and selling the Indian Made Foreign Liquor (IMFL) at village Mangalpur, in his resident house. In accordance with this tip off, police personnel with the Panchas, raided on 16.05.2025 at the house of the accused where he was present. Police personnel searched into the said house and seized 04 quarters of County Club Delux Whiskey worth of Rs. 372/- and seized them by performing Panch Rojkaam in presence of Panchas. This act of the accused is contravene of the Gujrat Prohibition Act hence police registered an offence vide C.R.No.0462/2025 under Section U/s 65AA of Gujarat Prohibition Act at Shahera Police Station against the accused and thereafter investigation was carried out. Finally, the chargesheet was filed in this Court against the accused.
2. On issuing the summons, the accused appeared before this Court with his advocate. He has been provided copy of Police report and other documents of the case under Section 207 of Cr.P.C. Thereafter, as per Section 240 of Cr. P.C. Charge was framed against the accused at Exh-04. Accused denied content of the charge in his plea which was recorded at Exh-05. Hence, the trial has been proceeded and evidence has been recorded.
3. The following oral evidence adduced by the prosecution:

P.W.	Name of witness	Exh.
01	Navghanbhai Samantbhai	11
02	Gunwantbhai Arjunbhai Patel	07
03	Vikrambhai Kabhsinh Baria	09
04	Babubhai Rayjibhai	15

**3.1.** Following documentary evidence is produced by the prosecution:

No.	Name of document	Exh.
01	FIR	12
02	Panchnama	08

- 4.** After recording the evidence of the prosecution learned APP orally declared the closure of prosecution evidence. Thereafter, further statement of the accused U/s 313 of the Criminal Procedure Code is recorded in which accused has denied all the allegations against him and also declared that he is not willing to adduce any evidence for his defense.
- 5.** Heard the oral argument of both the sides:
- 5.1** Learned APP argued that prosecution witnesses has proved FIR and Panchnama and they are remained unchallenged. Further stated that If Panch witnees turned hostile whole case of prosecution cannot be thrown out. Prosecution has proved his case with strong evidence and proved guilty to the accused, hence, he may be punished as per the law.
- 5.2** Learned Advocate of the accused vehemently argued that prosecution miserably failed to prove case against the accused. As prosecution has not produce a single documentary evidence regarding the ownership of the place of the raid. Further argued that the so called place of the raid

is within the residential area from where Investigation Officer could get independent witness though Investigation Officer has not produced single witness from the locality. Prosecution failed to prove Panchnama. In these circumstances, police personnel cannot be believe and relying on the prosecution evidence cannot be said that prosecution has proved his case hence prosecution failed to prove case against the accused and accused may be acquitted.

6. For the final conclusion of the case the following issues are framed.

(I) Whether the prosecution proves that the accused person was having in illegal possession of 04 quarters of County Club Delux Whiskey worth of Rs. 372/- Indian made Foreign Liquor on 16.05.2025 at village Mangalpur, in his resident house and made an offence U/s 65AA of the Gujarat Prohibition Act?

(II) What order?

7. The following answer is concluded all the above mentioned issues.

(I) Negative

(II) As per final order.

### **Reasonings**

#### **Issues No. 1 & 2-**

8. To prove its case, prosecution has examined Panch witness namely Gunwantbhai Arjunbhai Patel vide Exh-07 & Vikrambhai Kabhsinh Baria vide Exh-09. The panch witnesses denied the prosecution case and stated that no

prohibited Muddamal i.e. Indian Made Foreign Liquor has been seized in presence of them. They admitted the signature on Panchnama which is produced by Exh-08.

- 8.1** Prosecution witness Navghanbhai Samantbhai who lodged the FIR against the accused has examined vide Exh-11. In his chief examination he stated as per the fact of the FIR which is produced vide Exh-12. While in cross examination on behalf of the accused he admitted that- place of raid is within residential area and many people reside there, name of the panch witnesses have not been mentioned in the FIR, no documentary evidence of ownership of place of raid was on record.
- 8.2.** Prosecution has examined Investigation Officer- Babubhai Rayjibhai vide Exh-15 wherein he stated in chief examination as per the FIR which is on record vide Exh-10. While in cross examination on behalf of the accused they admitted that- place of raid is within residential area and many people reside there, no documentary evidence of ownership of place of raid was on record, he has not recorded statements of any independent witnesses except panchas.
- 8.3.** Looking to the evidence of the prosecution side it is clear that prosecution has not produced any single documentary evidence of ownership of the place of the raid from where Indian Made Foreign Liquor has been seized. Further, Panch witness has not supported the prosecution case and they declared hostile. The prosecution has failed to prove the panchnama vide Exh-08. Prosecution has failed to prove the said muddamal as a known brand of IMFL and original

Lable of the said muddamal. No forensic report has been produced from which one can make inference the sample collected by the Investigation Officer is of Indian Made Foreign Liquor. In this circumstances, it cannot be presumed that the Muddamal seized by police was Indian Made Foreign Liquor (IMFL) and it was in the possession of the accused.

Hence, at this juncture, it is pertinent to refer the Judgment of Hon'ble Supreme Court in para 15 of the case of "**Satish Mehra Vs. Delhi Administration & Anr** 31.07.1996 in which it has been held that "*when the judge is failry certian 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 formaly completing the procedure to pronounce the conclusion on a future date.*" Perusing the the judgment and observation of the Hon'ble Supreme Court it can be said that whenever court finds that there is no sufficient evidence and the final result would not be concluded in conviction, the court should not waste its valuable time to prolong the trial proceedings.

9. As discussed the evidence and facts of the case above, this court has come to conclusion that prosecution failed to prove it's case against the accused and so answer issue No.1 in negative and hence passed the following final order.

### **Final Order**

1. The accused person, U/s 255 (1) of the Criminal Procedure Code, Samantsinh Kalubhai Pagi, is hereby acquitted from

the alleged offence U/s 65AA of the Gujarat Prohibition Act.

2. Mudammal article of Liquor shall be destroyed after the appeal period is completed.
3. Accused person is hereby directed to submit the bail bond U/s 437-A of the Criminal Procedure Code till the appeal period.

Pronounced in the open Court on 8<sup>th</sup> Day of May, 2026.

Date : 08.05.2026

Place:-Shahera.

**[M. V. Choksi]**  
**[Code No. GJ-00831]**  
Additional Chief Judicial Magistrate,  
Shahera, Panchmahals.