

**Form A**

In the Court of the Additional Civil Judge and Judicial Magistrate First Class Mangrol Dist Surat Exh. 09 Judgement Date : 15/07/2026 Criminal Case No. 978 of 2025	
CASE INSTITUTED BY POLICE REPORT	
COMPLAINANT	THE STATE OF GUJARATLD
REPRESENTED BY	LD.A.P.P. S. N. CHAMPANERIYA
ACCUSED	Sunilbhai Vasantbhai Gamit, Res: Jhankhav Railway Station Faliyu, Tal. Mangrol, Dist. Tapi
REPRESENTED BY	Ld. Advocate S. R. Gohil

Form B

DATE OF OFFENCE	27/12/2024
DATE OF FIR	27/12/2024
DATE OF CHARGE SHEET	20/03/2025
DATE OF PLEA	20/03/2025
DATE OF COMMENCEMENT OF EVIDENCE	20/03/2025
DATE ON WHICH JUDGMENT IS RESERVED	-
DATE OF THE JUDGMENT	15/07/2026
PUNISHMENT (IF ANY)	--

Details of Accused

Sr. No	Name of the Accused	Date of Arrest	Release d on bail date	Charge	Acquited /Convicted	Punishment	Detention period during trial
1	Sunilbhai Vasantbhai Gamit	27/12/2024	27/12/2024	Prohi Act Sec 66(1)B & MV Act 185	Acquited	-	-

:: Form C ::**(List of Witness complainant/Defence/Court)****(A) Prosecution**

Sr. No	Exh	Name	Type of Evidence
1	4	Vinodbhai Bhagubhai Chaudhari	Panch

2	6	Sunilbhai Sumanbhai Chaudhari	Panch
3	7	Ketanbhai Chhanabhai Chaudhari	I/O

(B) Defence

Sr. No	Exh	Name	Type of Evidence
NIL			

(C) Court

Sr. No	Exh	Name	Type of Evidence
NIL			

(List of documents submitted by the Plaintiff/Defence/Court)**(A) Prosecution**

Sr No.	Exh	Details
1	5	Panchnama
2	9	Complaint

(B) Defence

Sr No.	Exh	Details
NIL		

(C) Court

Sr No.	Exh	Details
NIL		

(D) Material Object

Sr No.	Exh	Details
NIL		

Judgment

1) Briefly stating the facts of the prosecution case, brief facts of this case, on 27/12/2024, the accused of this case was caught at the public road leading from Zankhvav GEB Faliya, Tal.-Mangrol, District-Surat while driving his vehicle under intoxication at a very high speed and in a rash and negligent manner. Consequently, an offence was registered against the accused under Section 185 of the M.V. Act (Motor Vehicles Act) and Section 66(1)(b) of the Prohi. Act (Prohibition Act). Subsequently, the investigating officer, finding sufficient evidence against the accused after the investigation,

submitted a chargesheet regarding the offence to this Court.

2) After taking cognizance of the offence mentioned in the chargesheet against the accused and issuing summons, the accused appeared before the court. After ensuring that the accused had received copies of all police papers under Section 230 of the Bharatiya Nagarik Suraksha Sanhita, the charge under Section 185 and 66(1)(B) of the Gujarat Prohibition Act was read over, explained against the accused, upon recording the plea, the accused denied having committed the offence. Therefore, the matter was adjourned for recording the prosecution evidence.

3) Thereafter, the prosecution produced oral as well as documentary evidence as mentioned as form C above.

4) In the present case, the learned APP declared that the prosecution evidence has been completed. Thereafter, the further statement of the accused was recorded, wherein the accused denied the incriminating evidence against him, refused to examine defence witnesses or to give evidence on oath, and further stated that; no such offence has been committed by him and a false complaint has been filed against him.

5) In this case, oral arguments of the learned APP on behalf of the prosecution were heard. Oral arguments of the defence were also heard, wherein it was submitted that considering all the facts, the prosecution has failed to prove the case against the accused beyond reasonable doubt, and therefore, a request was made to acquit the accused.

6) For the purpose of deciding this case, the following issues arise:

1.	Whether the prosecution proves beyond reasonable doubt that on 27/12/2024, the accused on the public road going towards the public road leading from Zankhvav GEB Faliya, Tal.-Mangrol, District-Surat drove the vehicle in his possession after consuming liquor, at a high speed and in a negligent
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	manner, and was caught while committing offence punishable under section 185 of Motor Vehicles Act and Section 66(1)(B) of the Prohi Act?
2	What Order ?

7) My findings on the above issues are as follows:

1	In negative.
2	As per the final order.

Reasons

According to the established principles of the judicial ethics, the term “appreciation of evidence” has not been specifically defined anywhere in the law of evidence, nor are there any specific rules prescribed for it. The manner in which evidence is to be appreciated depends upon the facts and circumstances of each individual case. The basis for appreciation of evidence lies in the definitions of “proved” and “not proved” as provided under Section 3 of the Indian Evidence Act, 1872.

In criminal proceedings, the burden of proof lies upon the prosecution. The prosecution must prove its case beyond reasonable doubt. Unlike civil proceedings, where a matter may be decided on the basis of probability, such a standard does not apply in criminal trials. In criminal cases, the burden of proof never shifts on to the accused at any stage. The prosecution is not merely required to show probability, but must conclusively establish the charge against the accused beyond reasonable doubt. However, if the accused seeks to take benefit of any exception, then as per Section 105 of the Indian Evidence Act, 1872, the accused is required to establish such exception on the basis of probability. The accused is not required to prove such facts beyond reasonable doubt. When considering what constitutes “proved facts,” if, based on the material placed before the court, a person of ordinary prudence believes that a fact exists under the given circumstances, then such fact is said to be proved.

The Hon'ble Supreme Court in case of "State of UP v. Wasif Haider (2019) 2 SCC 303", as observed in paragraphs 22 and 23, and held that,

22. *In the instant appeals before us, the prosecution has failed to link the chain of circumstances so as to dispel the cloud of doubt about the culpability of the accused-respondents. It is a well settled principle that a suspicion, however grave it may be cannot take place of proof, i.e., there is a long distance between "may be" and "must be", which must be traversed by the prosecution to prove its case beyond reasonable doubt [See Narendra Singh v. State of M.P., (2004)10 SCC 699].*

23. *This Court in Kailash Gour and Ors. v. State of Assam, (2012) 2 SCC 34 has held that, "44. The prosecution, it is axiomatic, must establish its case against the accused by leading evidence that is accepted by the standards that are known to criminal jurisprudence regardless whether the crime is committed in the course of communal disturbances or otherwise. In short, there can only be one set of rules and standards when it comes to trials and judgment in criminal cases unless the statute provides for anything specially applicable to a particular case or class of cases..."*

Prosecution Evidence

8) In this case, the prosecution has examined Panches Vinodbhai Bhagubhai Chaudhari (Exh. 4) and Sunilbhai Sumanbhai Chaudhari (Exh.6) on oath in order to prove the offence against the accused.

On perusal of the evidence given by these witnesses on oath, it appears that they have only signed the prepared panchnama. They do not have any knowledge about the contents or facts of the panchnama. The panchnama produced in this case is not supported by them. Thus, since the said Panch witnesses did not support the contents of the panchnama, they were declared hostile by the prosecution. Even after cross-examination by the prosecution, they did not support the details of the panchnama.

8.1) During cross-examination by the defence, the said Panch witnesses stated that they had only signed the prepared panchnama

and had no further knowledge. They also stated that they had not accompanied the police to any place.

9) Thereafter, Investigation Officer Mr. Ketanbhai Chhanabhai Chaudhari (Exh. 7) was examined. His examination-in-chief on oath, reproduced as it is here : “અમો ગત તા.૨૮/૦૬/૨૦૨૪ ના રોજ ઝંખવાવ પો.સ્ટે ખાતે ફરજ બજાવતા હતા. આ દરમિયાન આ કામના આરોપી સુનીલ વસંતભાઈ ગામીતનાઓએ મોજે ઝંખવાવ ચાર રસ્તા પાસે રોડ ઉપર જાહેરમાં પોતાના કબજાની મોટર સાયકલ નશાની હાલતમાં પુરઝડપે અને ગફલતભરી રીતે હંકારતા તે બાબતે કિરણભાઈ રમણભાઈ રોહીતનાઓએ આરોપી વિરુદ્ધ ફરીયાદ આપેલી. જે ફરીયાદ મને બતાવવામાં આવે છે જેમાં નીચે તેઓની સહી છે જે સહી હું ઓળખી બતાવુ છુ સદર ફરીયાદને આ કામે રજુ દાખલ આંક-૮ આપવામાં આવે છે. સદર ગુનાની તપાસ અમોને મળતા સદર કામે આરોપીનું શારિરીક પંચનામુ બે પંચો ની રુબરુમાં કરી આરોપી વિરુદ્ધ પુરતા પુરાવા મળતા નામદાર કોર્ટમાં ચાર્જશીટ કરી મોકલી આપેલ. આરોપીને જોયેથી ઓળખી શકુ છુ જે આજરોજ નામદાર કોર્ટમાં હાજર હોય ઓળખી બતાવું છુ. ”

9.1) During cross-examination conducted by the learned defence counsel, the witness stated the same is reproduced as it is here : “એ વાત ખરી છે કે અમારી તપાસમાં કોઈપણ સ્વત્રંત સાહેદોના નીવેદનો લીધેલા નથી. એ વાત ખરી છે કે બનાવવાળા સ્થળની આજુબાજુમાં ઘણાબધા ઘરો આવેલા છે. એ વાત ખરી છે કે સદર હીરો કંપનીની સ્પેન્ડર પ્લસ મોસા ફુલ સ્પીડે ચાલતી હોય તે અંગેનો અમોએ કોઈ નિષ્ણાંત અધિકારીનો અભિપ્રાય લીધેલ નથી કે તે અંગેનો કોઈ એફ.એસ.એલ રીપોર્ટ રજુ કરેલ નથી. એ વાત ખરી છે કે અમોએ અમારી તપાસ દરમિયાન આરોપીએ દાઝ પીધેલ હોય તે અંગેનો એફ.એસ.એલ. રીપોર્ટ

ફોર્મ-સી સાથે સદર ગુનાના કામે રજુ કરેલ નથી. એ વાત ખરી છે કે આરોપીને બનાવ સ્થળેથી બ્રેથ એનાલાઈઝર મશીનથી ટાડ પીંધેલ હોય તેવી કોઈ તપાસેલ નથી. એ વાત ખરી નથી કે આરોપી વિરૂદ્ધ પુરતા પુરાવા ન હોય આરોપી વિરૂદ્ધ ખોટી ચાર્જશીટ કરી આજરોજ સોગંદ પર ખોટી જુબાની આપુ છું.”

Analysis of Evidence

10) As per the principles of criminal jurisprudence, the burden of proving the offence lies upon the prosecution. The prosecution must prove its case beyond reasonable doubt. The chain of evidence of each witness in the case must be interconnected.

11) Upon analysis of the oral as well as documentary evidence produced by the prosecution, it clearly appears that no panchnama has been prepared in the presence of panch witnesses in the present case. Thus, the case of the prosecution, which relies upon the panchnama, lacks proof that the panchnama was conducted in the presence of panch witnesses, and therefore, this Court does not find such evidence reliable. No FSL report has been produced by the prosecution which shows that accused was under intoxication at the time of incident. Court was not found anything as the allegation was levelled against the accused that at the time when police officials has caught the accused, it was not known the name of the owner which accused was driving and also not having it's vehicle number and vehicle name.

12) Moreover, when the place of incident is such where public persons are present or there is movement of people, it becomes necessary to record statements of independent witnesses. As held by the **Hon'ble Supreme Court in Jaikam Khan v. State of Uttar Pradesh**, failure to examine independent witnesses despite their availability creates doubt in the prosecution's case.

Thus, in view of the above facts, it is my opinion that the prosecution has failed to prove its case beyond reasonable doubt. Therefore, the benefit of doubt arising in the case should be given to the accused.

13) Since the prosecution has failed to prove the case beyond reasonable doubt, the charge against the accused is not established. Accordingly, Point No. 1 is answered in the negative, and as per Point No. 2, the following final order is passed:

ORDER

1. The accused is hereby acquitted from the charges leveled against him for alleged Commission of offenses punishable under the provisions of offence under section 185 of Motor Vehicles Act and Section 66(1)(B) of the Gujarat Prohibition Act, 1949 under Section 271(1) of the BNSS.

2. The bail-bond continue till appeal period.

3. As the accused was not present today, the judgment is pronounced in absence of the accused under Section 392(6) of the Bharatiya Nagarik Suraksha Sanhita.

Order signed and Pronounced in open court today on 15th day of July, 2026.

Place: Mangrol
Date: 15-07-2026

(J. G. Patel)
Additional Judicial Magistrate First Class,
Mangrol, Dist. Surat
GJ01699

(Siraj Akbar Ali)