

***In the Court of Karnik Singh Handa, Judicial Magistrate 1st Class, Jaitu.
(UID-PB0820)***

PBFDA10005522025



Presented on : 22-07-2025
Registered on : 24-07-2025
Decided on : 18-05-2026
Duration : 0 years, 9 months, 27 days

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State

Versus

Sukhmander Singh son of Utar Singh resident of Near Ravidas
Dharamshala, Village Chandbhan, Faridkot.

..... Accused

FIR No.25 dated 10.03.2025
U/S 61/1/14 of Punjab Excise Act
Police Station: Jaitu

Present: Sh. Manoj Bhushan, APP for the State.
Accused on bail with counsel Sh. NK Maheshwari,
Advocate.

JUDGMENT

1. Accused named above has been sent by the police in this case for facing trial for commission of offence punishable under Section 61 of The Punjab Excise Act, 1914 (hereinafter referred to as 'Excise Act').
2. Brief facts of the case of prosecution are that on 10.03.2025, HC Varinder Singh along with police officials were on patrolling in

Karnik Singh Handa,
JMJC, Jaitu

connection with checking of suspected persons and when they reached bear drain bridge, Village Chandbhan, then at about 06:00 PM, Excise Inspector Parteeka Gupta has met the police party who disclosed to HC Varinder Singh that Sukhmander Singh son of Utar Singh resident of Near Ravidas Dharamshala, Village Chandbhan, Faridkot is habitual of drinking and selling illicit liquor at his house and he can be apprehended with heavy quantity of illicit liquor or lahan, if raid is conducted. As information was credible, IO sent ruqa through PHG Resham Singh for registration of FIR, on the basis of which FIR was registered against the accused. Thereafter, intimation was given to PCR and Excise Inspector Parteek Gupta was joined in the investigation. Thereafter, the police party headed towards the house of the accused and when they reached near Ravidas Dharamshala, Village Chandbhan, they had apprehended accused Sukhmander Singh who was made aware about the police party as well as Excise Inspector Parteek Gupta. Thereafter, accused Sukhmander Singh has disclosed that he has prepared lahan at his house which is lying in a drum kept at his house towards the wall of kitchen. Thereafter, by leading the police party, accused Sukhmander Singh got recovered one drum which was lying towards the wall of kitchen of house of Sukhmander Singh. Excise Inspector Parteek Gupta has checked the said drum from which lahan was recovered. On measurement, lahan came to be 200 liters. HC Varinder Singh has sealed the drum containing 200 liters of lahan with his seal bearing impression "HC". Entire case property was taken into

police possession vide separate memo. IO inspected the spot and prepared rough site plan. Accused Sukhmander Singh was arrested. Memos with regard to arrest of accused Sukhmander Singh were prepared. Statement of witnesses were recorded. Completion of the investigation was followed by presentation of challan against the accused under Section 61 of Excise Act.

3. On presentation of challan against the accused, copies of the challan were supplied to the accused free of cost as envisaged under law.

4. Having found a prima facie case made out against the accused under Section 61 of Punjab Excise Act, 1914, they were charge sheeted accordingly. The said charge was read over and explained to the accused who pleaded “not guilty” to the same and opted to contest the case by claiming trial.

5. In order to prove its case, prosecution examined PW1 Excise Inspector Parteek Gupta, PW2 HC Varinder Singh, PW3 Sr. Ct. Rohit Sharma, PW4 S/Ct. Sukhwinder Singh, PW5 Harpreet Kaur and thereafter, prosecution evidence was closed by learned APP for the State vide separate statement.

6. Statement under Section 313 Cr.P.C. of accused was recorded, in which all the incriminating evidence appearing against the accused was put to him, to which he denied and pleaded false implication.

7. The accused opted to lead evidence in defence, but accused did not lead any evidence in defence and the same was closed by order.

8. I have heard the arguments of learned APP for the State and learned Defence Counsel and have gone through the file very carefully.

9. During course of arguments, firstly learned APP for the State reiterated the case and evidence of the prosecution and further submitted that the prosecution has proved on the file recovery of Lahan from the possession of accused. The defence has failed to cast any doubt in the prosecution story nor defence has been able to prove any license with the accused to possess such Lahan. He further submitted that all the prosecution witnesses have corroborated the case of prosecution and proved the same. Lastly, he prayed that the accused be punished strictly.

10. Per contra, learned Defence Counsel has argued that accused are innocent and have been falsely implicated in this case. No independent witness has been joined during the alleged recovery effected from the accused. There are major contradiction in the testimonies of prosecution witnesses. Thus, prosecution has failed to prove the case beyond shadow of reasonable doubt and as such, accused is entitled to acquittal.

11. After perusing the file on record and hearing respective submissions of learned APP for the State and learned defence counsel following sole question for determination arises in the present case:-

(i) Whether the prosecution has able to prove beyond reasonable shadow of doubt on record recovery of 200 liter of Lahan from accused Sukhmander Singh, without any license with the accused to possess or retain so?

12. Considered. In order to prove its case, prosecution examined PW1 Excise Inspector Parteek Gupta, who deposed with regard to investigation conducted by IO and recovery from the accused. He proved on record ruqa Ex. P1, FIR Ex. P2, memos Ex.P2 to Ex.P8, site plan Ex.P9, written report Ex.P10 and case property MO1.

13. PW2 HC Varinder Singh, Investigating Officer of the present case deposed with regard to the investigation conducted by him in the present case. He has also proved on record ruqa Ex. P1, FIR Ex. P2, memos Ex.P2 to Ex.P8, site plan Ex.P9 and case property MO1.

14. PW3 Sr. Ct. Rohit Sharma, recovery witness, deposed with regard to investigation conducted by IO and recovery from the accused. He has also proved on record ruqa Ex. P1, FIR Ex. P2, memos Ex.P2 to Ex.P8, site plan Ex.P9 and case property MO1.

15. PW4 S/Ct Sukhwinder Singh deposed with regard to depositing the case property with him being Incharge of Malkhana. He also proved on record copy of register No.19 Ex.PW4/A.

16. PW5 Harpreet Kaur, J.E., PSPCL, Sub-Division, Jaitu has brought the summoned record pertaining to bill/account No.3000273139 as Ex.PW5/A and computer generated bill of Sukhmander Singh Ex.PW5/B.

17. In the present case, in order to bring home the guilt of accused, prosecution has completely examined above mentioned five witnesses, who have supported the case of prosecution. However, with the

evidence adduced on record, prosecution has not been able to prove the case against accused beyond the shadow of reasonable doubt. The alleged recovery in question is based on secret information. PW2, Parteek Gupta (Excise Inspector), during cross-examination, admitted that no Numbardar, Chowkidar, member, Sarpanch or any neighborer were called at the spot by IO in his presence. PW2 HC Varinder Singh (Investigating Officer), during his cross-examination, admitted that he did not call any respectable of the village from the neighboring houses and shops. So, the case of the prosecution became dubious with regard to compliance of Section 100(4) Cr.P.C. which provides that before making search, the officer or other person about to make it, shall call upon two or more independent and respectable inhabitant of the locality in which the place to be searched is situated or of any other locality if no such inhabitant of the said locality is available or is willing to be a witness to the search, to attend and witness the search and may issue an order in writing to them or any of them so to do. The prosecution has miserably failed to prove in this case that the police tried to join any independent witness or gave any order in writing to that effect. Reliance is placed on case titled as ***Jeet Singh Vs. State of Punjab Law Finder Doc ID # 260321*** wherein it has been held by Hon'ble Punjab & Haryana High Court that when police is on patrol duty at a public place and information is received by the police that accused possess illicit liquor, then it is mandatory for the police to join independent witness from that public place and when the police has

not done so, then it is not fair to solely rely upon statements of police officials. Reliance is also placed on case titled as ***Arjan Singh Vs. State of Punjab Law Finder Doc ID # 273158*** wherein it has been held by Hon'ble Punjab & Haryana High Court that the police officials registering a case are highly interested in the success of such case detected by them and thus their evidence is open to criticism, but if found having discrepancies then not sufficient to convict the accused in the absence of corroboration by independent witness.

18. The alleged recovery of 200 liters of lahan was allegedly effected from the house of accused. A very material dint in the case of the prosecution is lack of proper test/chemical examiner report to declare the liquid alleged to be recovered from the accused as lahan. Reliance is placed on decision of Hon'ble Supreme Court of India in ***State of AP Vs. Madiga Boosenna and others Law Finder Doc ID # 109955***, wherein it is held that it is always duty of the prosecution to establish that the commodity/liquid recovered from the accused comes under one or other of the various items referred to in the definition of 'liquor'. It is further held that merely trusting to the smelling sense of prohibition officers, who gave opinion that strong smell of alcohol emanated from the recovered tins, cannot justify the conviction of the accused, rather a better proof, by a technical person who has considered the matter from a scientific point of view is not only desirable but necessary, to establish that the article seized (from the accused) is coming within the definition of liquor. In ***Lachman***

Singh Kartar Singh Vs. The State Law finder Doc ID # 278024 Hon'ble

Punjab and Haryana High Court has held that it is very much required that the Excise Sub Inspector, at the time of making a test of the liquid alleged to be lahan, gives reasons for coming to the conclusion that the substance was infact lahan only. It is further held that most of the cases of such type are dealt within a somewhat slipshod manner and it is taken for granted that the ipse dixit of the excise official, is sufficient to establish that the recovered article is an excisable or contraband article, but little more evidence is necessary before a person can be held guilty of a criminal charge (of having possessed liquor or lahan). The ratio of these judgments is very much clear that to convict a person of criminal charge for having possessed excisable or contraband article, there must be cogent and convincing report declaring such article/liquid into such category. Similarly, in this case also the prosecution was required to convince the Court that on the basis of report of a chemical examiner or an expert or at least on the basis of some analytical report of competent person only, the liquid recovered from the accused was held to be falling in the category of lahan. After appreciation of evidence of the prosecution, it comes out that the prosecution has held such liquid to be lahan upon the basis of test report Ex.P10 given by PW1 Parteek Gupta, Excise Inspector. Moreover, neither the prosecution nor this witness has proved on the file any training or certificate or competency with this witness to test a liquid by just its taste and smell. As per test report Ex.P10, this witness smelled the liquid

and tasted it, after which he declared it to be lahan, but such criteria of analysis does not appeal to be convincing to conclude that the liquid could not be anything except lahan. Accordingly, there is no hitch to this Court to conclude that the prosecution has failed to convince the judicial mind of the Court that the liquid stated to be recovered from the accused was lahan only and nothing else.

19. Moreover, when the case property i.e. drum allegedly containing the lahan recovered from the possession of the accused was produced in the court, the cloth was also torn. No explanation whatsoever furnished in this regard as to how and under what circumstances, the cloth was torn. PW1 Parteek Gupta, during his cross-examination has admitted that he has seen the case property in the Court, where upper cover/lid of the drum was not sealed and the cloth which has covered the said lid was torn. PW2 HC Varinder Singh, during his cross-examination has also admitted that the upper lid of the drum was having no seal and the cloth was torn. PW3 Sr. Ct. Rohit Sharma, during his cross-examination has also admitted that the upper lid of the drum was having no seal and cloth was torn. In such circumstances, the possibility of tampering the case property cannot be ruled out. Hence, prosecution has completely failed to prove that the case property remained intact and was not tampered with till the time it was produced in the Court which was more important when the seal remained with the police official of the same police station. This again creates sufficient doubt over the prosecution story, benefit of which

must go to the accused.

20. It is a well-settled principle of criminal jurisprudence that every accused is presumed to be innocent until proven guilty — a concept rooted in the doctrine of "*presumption of innocence*". The burden of proving the guilt of the accused beyond reasonable doubt rests solely with the prosecution. If the prosecution's case suffers from even the slightest degree of reasonable doubt, that benefit must go to the accused. It is further settled that the accused is not required to prove his defence beyond a reasonable doubt. Even if the accused, during the cross-examination of prosecution witnesses, is able to cast serious doubt on the prosecution's version, that is sufficient to entitle him to an acquittal. In criminal law, where two views are possible, the one that favours the accused must prevail.

21. In view of the foregoing discussion, this Court is of the considered opinion that there are serious lapse on the part of the prosecution in the investigation proceedings as well as absence of link of evidence. Accordingly, question for determination is decided in favour of accused and against the prosecution. Since prosecution has failed to prove the charge leveled against the accused beyond the shadow of reasonable doubt, I acquit the accused Sukhmander Singh from the charge leveled against him. Bail bonds and surety bonds of accused are kept intact for another six months in compliance with Section 437-A of Cr.P.C. in order to ensure the presence of accused in appeal or revisional Court as the case

may be, in case any appeal or revision is preferred by the State. It is clarified here that on the expiry of six months from the date of this judgment, those bonds shall stand automatically discharged. Case property, if any, be disposed of/dealt as per rules after lapse of period of appeal or the outcome of the same, as the case may be. File be consigned to the record room.

Pronounced in open court:-

Date of Order:18.05.2026

Arshdeep

(Dictated directly on computer)

(Karnik Singh Handa)

Judicial Magistrate 1st Class,

Jaitu/UID No.PB0820