

FORM-A**IN THE COURT OF SUB-DIVISIONAL
JUDICIAL MAGISTRATE, NUAPADA****P r e s e n t :****Smt Snataki Dash, LL.M.,
S.D.J.M, Nuapada****JO CODE:- OD0727****Dated, 20th day of July, 2026****2(a)cc No. 375 of 2025
Trial No.13/2026
C. No.376/2025****(Arising Out of P.R No.269/2025-26,
Dist. Mobile Unit, Nuapada**

Complainant	STATE OF ODISHA
Represented by	Sri Ghanashyam Sahu, L/d APP, Nuapada
Accused	Dinesh Sahu, aged about 37 years, S/o- Late Rupchand Sahu, AT/PO-Amanara, PS- Dharambandha, Dist- Nuapada.
Represented by	Advocate Shri D. Dixt & Associate Advocates, Nuapada.

Status of the accused person: Accused is on bail.**FORM-B**

Date of Offence	31.12.2025
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Date of PR	02.01.2026
Date of Framing of Charges	09.01.2026
Date of Commencement of Evidence	27.05.2026
Date of which Judgment is Reserved	20.07.2026
Date of the Judgment	20.07.2026
Date of the Sentencing Order, if any	N.A.

Accused Details:

Rank of the accused	Name of the accused	Date of Arrest	Date of Release on Bail	Offences Charged with	Whether acquitted or convicted	Sentence imposed	Period of Detention on undergone during Trial for purpose of Section 468 of BNSS
1.	Dinesh Sahu	31.12.25	02.01.26	U/s.52(a) of Odisha Excise Act	Acquitted	-	N.A.

J U D G M E N T

01. The above named accused stands charged for the commission of offence U/s. 52 (a) of the Odisha Excise Act for possessing 11.200 liters of OS liquor without license or any authority.

02. The brief facts of the case is that on 31.12.2025 at about 11:40 AM while the SI of Excise Debashish Sridar and staffs were performing patrolling duty at Amanara village area under Dharambandha PS, they got information about illegal

transportation of liquor at Amanara village. Then he along with his staffs had been to the spot and noticed that the accused was going on the village road by holding a white colour bag. On suspicion that person was detained and on search being conducted by the Excise officials, they recovered 56 nos. of poly pouches, each containing 200 ml., in total 11.200 liters of OS liquor from the possession of the accused. On demand the accused could not produce any license for selling of the said liquor. The informant-cum-IO tested the liquid substance with blue litmus paper which turned into red. From the test, smell and from his service experience, he came to know that the liquid substance is nothing but O.S Liquor. Thereafter, he seized the said pouches from the possession of accused at the spot in presence of witnesses, prepared the seizure list. After completion of inquiry the IO submitted PR on dt.02.01.2026 PR No.269/2025-26 against the present accused U/s.52(a) of Odisha Excise Act. Hence, this case.

03. The plea of accused is one of complete denial and that of false implication.

04. The points for determination in this case is as follows:

- I. Whether on dtd-31.12.2025 at about 11:40 AM at Amanara village area under

Dharambandha PS, the accused was in illegal possession of 56 nos. of poly pouches, each containing 200 ml., in total 11.200 liters of OS liquor without having any license or authority?

05. In order to prove its case, prosecution has examined as many as three witnesses. P.W.1 is the informant-cum-IO, P.W.2 is an official witness and P.W.3 is an independent witness. Prosecution has exhibited some documents which are appended at the footnote of the judgment. On the other hand, defence has neither examined any witnesses nor exhibited any document on its behalf.

06. Examined the evidence on record. After careful scrutinization of available evidence, it is found that the Informant-cum-IO (**P.W.1**) deposed that on dated 31.12.2025 at about 11:40 AM, 56 nos. of poly pouches, each containing 200 ml., in total 11.200 liters of OS liquor were recovered from the possession of the accused. He proved the blue litmus paper vide Ext.P-1/PW1. He proved the seizure list vide Ext.P-1¹/PW1 and admitted his signature on it vide Ext.P-1²/PW1. He proved the hydrometer chart vide Ext.P-2/PW1 and admitted his signature on it vide Ext.P-2¹/PW1. He proved the spot map vide Ext-P-3/PW1 and admitted his signature on it vide Ext.P-3¹/PW1. During his

cross examination he stated that he had not undergone any distillery training to identify liquor. He further stated that he had collected sample of the seized liquor but not sent for chemical examination and he had not produced the seized pouches before this court. He stated that blue litmus paper turns red if it comes in contact with any acidic substance and chemical test is the surest test. He deposed that he had not submitted any extract of malkhana register with respect to keeping of the seized items at Excise malkhana and he had not submitted any extract of the tour diary maintained at their office. The official witness **(P.W.2)** deposed that on dated 31.12.2025 at about 11:40 AM, 56 nos. of poly pouches, each containing 200 ml., in total 11.200 liters of OS liquor were recovered from the possession of the accused. She admitted her signatures on the seizure list, hydrometer chart & spot map vide Ext.P-1³/PW2, Ext.P-2²/PW2 & Ext.P-3²/PW2 respectively. During her cross-examination she stated that she does not find the seized items in the Court. She further stated that no sample was collected from the seized liquor at the spot for purpose of chemical examination. She deposed that the packing of seized pouches are looking like water pouches but having liquor smell. She stated that blue litmus paper change into red if it comes with any acidic substance and no money was seized from the possession of the accused. The independent witness **(P.W.3)** expressed

his total ignorance about this case and deposed that nothing has been seized in his presence but he admitted his signatures on the seizure list, hydrometer chart & spot map vide Ext.P-1⁴/PW3, Ext.P-2³/PW3 & Ext.P-3³/PW3 respectively.

Admittedly, the seized liquor subjected to blue litmus paper test and hydrometer test. It is well settled that blue litmus paper test determines the acidic content of the liquid whereas hydrometer test determines the density of the liquid. The Hon'ble High Court of Orissa in **Suma Das V. State of Orissa reported in (1993) 6 OCR-612** has observed inter-alia that :-

“ Hence, the blue litmus paper only shows that the liquid to be acidic and no more. So far as hydrometer test is concerned, it is a test only to show the density of the liquid. Thus, the combined effect of blue litmus paper and hydrometer tests would show that the liquid is acidic in nature and density similar to that of liquor. But, both such tests to put together would not avoid the possibility that the liquid is not distilled liquor ”.

07. From the above evidence on record, it is noticed that the seized pouches have never been produced in the Court for inspection, which creates a reasonable doubt regarding truthfulness of the case of the prosecution. It is the duty of the excise officer to

produce the seized articles during trial but he failed to do so. Chemical test is the surest test to ascertain liquor but in this case no sample was collected for purpose of chemical examination. Moreover the independent witness has not supported case of prosecution and denied the fact of seizure in his presence. In the case reported in **Simanchal Choudhry Vrs State of Orissa reported in 2005(II)O.L.R 401** where in their Lordship have held that independent corroboration regarding the factum of search, seizure and chemical examination is must for coming to conclusion as regards the guilt of accused in a case of this nature. Relying on the above said case laws & in absence of any independent corroboration to this case, the alleged offence is not proved against the accused beyond all reasonable doubts.

08. In the result, this court holds that the accused is found not guilty of the offence punishable U/s.52 (a) of the Odisha Excise Act. Accordingly, this Court acquitted him thereof U/s.271(1) of BNSS. Let the accused be set at liberty forthwith. Previous bail bonds to remain in force till six months from today for the purpose of Section 481 of BNSS.

The seized articles be destroyed after expiry of four months of period of limitation for appeal, if no appeal is preferred or if appeal is

preferred the same shall be disposed of as per the direction of the Hon'ble Appellate Court.

This judgment is pronounced by me in the open Court in absence of the accused being represented U/s.355 of BNSS for today i.e. on this 20th day of July, 2026 under my signature and seal of this court.

S.D.J.M., Nuapada

Typed to my dictation and corrected by me.

S.D.J.M.,Nuapada.

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES		
A. Prosecution Witnesses		
RANK	NAME	NATURE OF EVIDENCE
P.W.1	Debashish Sridar	Informant-cum-IO
P.W.2	Deepanjali Tiwari	Official Seizure Witness
P.W.3	Santosh Rout	Independent Seizure Witness
B. Defence Witness, if any:		
RANK	NAME	NATURE OF EVIDENCE
-NIL-	-NIL-	-NIL-
C. Court Witnesses, if any:		
RANK	NAME	NATURE OF EVIDENCE
-NIL-	-NIL-	-NIL-
LIST OF PROSECUTION/DEFENCE/COURT/EXHIBITS		

A. Prosecution Exhibits		
Sl. No.	Exhibit Number	Description
1.	Ext.P-1/PW1	Blue Litmus Test
2.	Ext.P-1 ¹ /PW1	Seizure List
3.	Ext.P-1 ² /PW1	Signature of PW.1 on Seizure List
4.	Ext.P-1 ³ /PW.2	Signature of PW.2 on Seizure List
5.	Ext.P-1 ⁴ /PW3	Signature of PW.3 on Seizure List
6.	Ext.P-2/PW1	Hydrometer Chart
7.	Ext.P-2 ¹ /PW1	Signature of PW.1 on Hydrometer Chart
8.	Ext.P-2 ² /PW2	Signature of PW.2 on Hydrometer Chart
9.	Ext.P-2 ³ /PW3	Signature of PW.3 on Hydrometer Chart
10.	Ext.P-3/PW1	Spot Map
11.	Ext.P-3 ¹ /PW1	Signature of PW.1 on Spot Map
12.	Ext.P-3 ² /PW2	Signature of PW.2 on Spot Map
13.	Ext.P-3 ³ /PW3	Signature of PW.3 on Spot Map
B. Defence Exhibits, if any		
Sl. No	Exhibit Number	Description
1.	-NIL-	-NIL-
C. Court Exhibits, if any		
Sl. No.	Exhibit Number	Description
1.	-NIL-	-NIL-
D. Material Object:		
Sl. No.	Material Object	Description
1.	-NIL-	-NIL-

S.D.J.M., Nuapada.