

Form No. (M) 34.

FORM A

IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE, KALIMPONG. Present: Arfa Yasmin, Chief Judicial Magistrate, JO Code WB 01110 Date of delivery of Judgement: <u>The 30th day of June, 2026.</u> <u>C.R Case No. 06 of 2023</u> <u>CIS No. GR 04 of 2024</u> <u>CNR WBDJ090001472023</u> <u>S.I.'s S.L. No. 184/2022-23 dated 25.02.2023 u/s 46A(c)/52 of Bengal Excise Act.</u>	
COMPLAINANT	State of West Bengal
REPRESENTED BY	Ld. APP Smt. Roshni Rai
ACCUSED	Uday Pradhan
REPRESENTED BY	Sri Bibek Thapa

Form No. (M) 35.

FORM B

Date of Offence	25.02.2023
Date of FIR	25.02.2023
Date of Chargesheet/POR	29.03.2023
Date of Framing of Charge/Plea	05.11.2024
Date of commencement of Evidence	20.07.2023
Date on which Judgement is reserved	22.06.2026
Date of Judgement	30.06.2026
Date of the Sentencing Order, if any	Not applicable

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 Undergone during Trial for purpose of Section 428, Cr. PC.
1.	Uday Pradhan	25.02.2023	13.03.2023	46A(c)/52 of Bengal Excise Act	Acquitted	N.A.	N.A.

Form C

LIST OF PROSECUTION / DEFENCE / COURT WITNESSES

A. Prosecution:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
1	Ashis Subba S.I. of Excise	Excise witness
2	Prahlad Sen Constable of Excise	Excise witness
3	Sonam Tshering Lepcha O.C. of Excise	Excise witness
4	Samir Oraon A.S.I. of Excise	Excise witness

B. Defence Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS OTHER WITNESS)
N.A.	N.A.	N.A.

C. Court Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS OTHER WITNESS)
N.A.	N.A.	N.A.

LIST OF PROSECUTION / DEFENCE / COURT EXHIBITS

A. Prosecution:

Serial No.	Nature of documents/signatures	Exhibit No.
1.	Signature of the PW 1 on the seizure list dated 25.02.2023.	Exbt. P-1/P.W. 1
2.	Signature of the PW 2 on the seizure list	Exbt. P-1/1/P.W. 2

	<i>dated 25.02.2023.</i>	
3.	<i>Rough Sketch Map and Index</i>	<i>Exbt. P-2/P.W. 3</i>
4.	<i>Requisition sent to RTA, Siliguri</i>	<i>Exbt. P-3/P.W. 3</i>
5.	<i>Advice of samples dated 28.02.2023</i>	<i>Exbt. P-4/P.W. 3</i>
6.	<i>RTA reply regarding ownership of vehicle</i>	<i>Exbt. P-5/P.W. 3</i>
7.	<i>Seizure List dated 25.02.2023</i>	<i>Exbt. P-6/P.W. 3</i>
8.	<i>Signature of P.W. 4 on the seizure list dated 25.02.2023</i>	<i>Exbt. P-1/2/P.W. 4.</i>

B. Defence:

Sr. No.	Exhibit Number	Description
<i>N.A.</i>	<i>N.A.</i>	<i>N.A.</i>

C. Court Exhibits:

Sr. No.	Exhibit Number	Description
<i>N.A.</i>	<i>N.A.</i>	<i>N.A.</i>

D. Material Objects:

Serial No.	Description	Material Object Number
1.	<i>One bottle of Hit Beer</i>	<i>Mat. Object I</i>
2.	<i>One bottle of Honey Bee Brandy</i>	<i>Mat. Object II</i>
3.	<i>One bottle of Royal Blue Whiskey</i>	<i>Mat. Object III</i>
4.	<i>One bottle of XXX Rum</i>	<i>Mat. Object IV</i>

J U D G E M E N T

A concise fact of the prosecution case is that; on 25.02.2023, at around 15:00 hrs. the officials of Kalimpong Excise Circle, upon receiving a secret information, went for a naka duty at Labarbotey, NH-10, Kalimpong. They had information that one consignment of non-duty paid liquor would be coming from Jorethang, Sikkim side. The noted vehicle arrived and they signalled to stop the vehicle. Upon search of the vehicle, they found i) 98 paper cartons of non duty paid Sikkim made Hit Beer, ii) 12 paper cartons of non duty paid Sikkim made Honey Bee Brandy, iii) 05 paper cartons of non duty paid Sikkim made Royal Blue Whiskey, iv) 15 paper cartons of non duty paid Sikkim made XXX Rum. The driver of the vehicle failed to produce valid documents and

therefore, O.C. Excise seized the articles along with the vehicle under a proper seizure list.

Enquiry was conducted over the incident. After the completion of enquiry, the enquiry Officer submitted the Prosecution Report being no. 24/2023-24 dated 29.03.2023 against the accused Uday Pradhan u/s 46A(c)/52 of Bengal Excise Act. Accused appeared in the meantime and obtained bail.

Prosecution examined four (04) witnesses viz. S.I. of Excise, Ashis Subba, Excise Constable, Prahlad Sen, O.C. of Excise Sonam Tshering Lepcha, ASI of Excise Samir Oraon were examined before charge as P.W 1, P.W. 2, P.W. 3 and P.W. 4 respectively.

In course of evidence of the prosecution witnesses before charge, the following articles, documents and signatures were marked as exhibits/material exhibits:

Serial No.	Nature of documents/signatures	Exhibit No.
1.	Signature of the PW 1 on the seizure list dated 25.02.2023.	Exbt. P-1/P.W. 1
2.	Signature of the PW 2 on the seizure list dated 25.02.2023.	Exbt. P-1/1/P.W. 2
3.	Rough Sketch Map and Index	Exbt. P-2/P.W. 3
4.	Requisition sent to RTA, Siliguri	Exbt. P-3/P.W. 3
5.	Advice of samples dated 28.02.2023	Exbt. P-4/P.W. 3
6.	RTA reply regarding ownership of vehicle	Exbt. P-5/P.W. 3
7.	Seizure List dated 25.02.2023	Exbt. P-6/P.W. 3
8.	Signature of P.W. 4 on the seizure list dated 25.02.2023	Exbt. P-1/2/P.W. 4.

Serial No.	Description	Material Object Number
1.	One bottle of Hit Beer	Mat. Object I
2.	One bottle of Honey Bee Brandy	Mat. Object II
3.	One bottle of Royal Blue Whiskey	Mat. Object III
4.	One bottle of XXX Rum	Mat. Object IV

Having considered the materials on record before charge, prima facie, a charge u/s 46A(c)/52 of Bengal Excise Act was found well established against the accused.

Accordingly, a charge punishable u/s 46A(c)/52 of Bengal Excise Act was framed against the accused. The contents of the charge was read over and explained to the accused in Nepali to which he pleaded not guilty and claimed to be tried.

Only P.W. 1, S.I. Ashis Subba was cross examined after charge.

Accused was examined u/s 313 of Code of Criminal Procedure (In short Cr. PC.) where he claimed innocence and falseness of the case. Accused declined to adduce any evidence in his favour.

POINTS FOR DETERMINATION

1. Whether or not i) 98 paper cartons of non duty paid Sikkim made Hit Beer, ii) 12 paper cartons of non duty paid Sikkim made Honey Bee Brandy, iii) 05 paper cartons of non duty paid Sikkim made Royal Blue Whiskey, iv) 15 paper cartons of non duty paid Sikkim made XXX Rum were recovered from the possession of the accused as alleged?

2. Whether or not prosecution been able to prove its case against the accused beyond reasonable doubt?

DECISION WITH REASONS

Both the points are taken up together for consolidated discussion. Prosecution examined four witnesses (04) in order to bring home the charges against the accused.

All the prosecution witnesses are Excise witnesses.

P.W. 1 namely Ashis Subba, S.I. of Excise deposed in his evidence that on 25.02.2023 he accompanied O.C. of Excise, Sonam Tshering Lepcha, and Excise Constables Prahlad Sen and Samir Oraon to conduct a watch duty at Rambhi. They reached the spot at about 5:00 AM. O.C. Excise had a secret information that a vehicle loaded with liquors would coming from Sikkim side. They had information that the registration number of the vehicle would be 5310. They intercepted the vehicle near Rambhi Bridge on NH-10 and on search they found i) 98 paper cartons of non duty paid Sikkim made Hit Beer, ii) 12 paper cartons of non duty paid Sikkim made Honey Bee Brandy, iii) 05 paper cartons of non duty paid Sikkim made Royal Blue Whiskey, iv) 15 paper

cartons of non duty paid Sikkim made XXX Rum. The driver could not produce any documents on demand. O.C. of Excise seized those articles on the spot along with the vehicle under a seizure list wherein he also put his signature. The driver of the vehicle disclosed his name as Uday Pradhan.

P.W. 2 namely Prahlad Sen, Excise Constable, P.W. 3 namely Sonam Tshering Lepcha, O.C. Excise and P.W. 4 namely Samir Oraon, Excise Constable deposed in similar lines like P.W. 1.

Except P.W. 1 no other witnesses were cross-examined after charge.

In the case of this nature, inter alia prosecution must prove two things, first, seizure of liquor from the possession of the accused and secondly, authenticity of the articles seized as liquor.

It appears from the record that no chemical examination report has been submitted before this Court. Also, the prosecution has failed to establish a link between the accused and the seized articles. Thus, considering the facts and circumstances of the case, it appears that there is paucity of evidence to establish the guilt of the accused. Resultantly, the accused person is entitled to the benefit of doubt in such circumstances and both the points are decided in the negative and against the prosecution. Prosecution has failed to bring home the charge against the accused.

In the result, the prosecution case fails.

Hence, it is,

ORDERED

that the accused namely

Uday Pradhan is found **not guilty** of the offences u/s 46A(c)/52 of Bengal Excise Act and therefore, he is **acquitted** u/s 248(1) Cr. PC.

Accused is discharged from his bail bond.

Seized articles be destroyed as per law after the period of appeal.

Seized documents if any including the Driving License, be returned to its original owner after due verification.

Owner of the vehicle bearing registration no. WB-74F/5310 is discharged from his zimmanama bond.

Inform the complainant through Secretary, District Legal Services Authority, Kalimpong of his right to prefer an appeal under proviso to section 372 of Cr. PC against this judgement.

Let a copy of this judgement be sent to the District Magistrate, Kalimpong in terms of the direction of the Hon'ble Calcutta High Court made

in the case of Sabitri Bhunya Vs the State of West Bengal and Others (CRA 266/2020 with CRAN 01/2020) for information.

Note in the T.R. Upload in CIS.

Dictated & Corrected,

-S/d-

C. J. M., KPG.

-S/d-

Chief Judicial Magistrate,

Kalimpong.

30.06.2026