

ORDER BELOW EXHIBIT 1 IN C. C. No. 25598 / 2020

The prosecution has filed the present charge-sheet against the accused under section 66 (1) (B) and 85 (1) of the Bombay Prohibition Act (as applicable to Gujarat) and Gujarat Police Act 110, 117 which is warrant triable in nature. It is evident from the charge-sheet produced that there is no FSL report enclosed. It is well settled proposition of Law under rule 4 of the Bombay Prohibition (Medical Examination and Blood Test) Rules 1959, that if the blood sample is not received and analyzed within 7 days, the accused is entitled for acquittal by the way of dropping proceedings against him. Also, the Hon'ble High Court of Gujarat has held in the case of ***State of Gujarat v. Bapuji Savaji*** reported in 1990 (2) GLH 451 that, *“the Rule 4 of Bombay Prohibition (Medical Examination and Blood Test) Rules 1959 is a mandatory provision. When the blood sample did not reach the Chemical Analyst within seven days of its collection, the mandatory provisions of Rule 4 (1) and (2) are violated and the accused is liable for discharge.”* Therefore, perusing the said Law, it becomes crystal clear that no charge-sheet can be filed without the FSL report as the offence is made or not can only be judged after perusing FSL report. In the present case, it transpires that no such report is enclosed and also that no such procedure was adopted by the IO to get the blood sample analyzed which is a material defect. Hence, in the interest of Justice, I hereby pronounce the following order:-

-::ORDER::-

The accused is hereby discharged from the alleged offences under section 66(1)(b),85(1) of Bombay Prohibition Act as applicable to Gujarat and Gujarat Police Act 110, 117. Accordingly, the case is disposed of. The surety stands discharged.

Signed and declared in this open Court on this 15th day of Month **July** of Year **2024**.

Dt.15-07-2024.

[Sanat Jayantilal Panchal]
Addl.Chief Judicial Magistrate,
Ahmedabad City. [GJ00864]