



**In the Court of Judicial Magistrate, 1<sup>st</sup> Court Raghunathpur, Purulia**

Present: BASHAR NAWAZ, [J.O Code: WB01449]

[On this 09<sup>th</sup> day of March, 2026]

[G.R. Case No. 153 of 2025]

CNR NO; WBPU060012482025

[CIS Registration No. 847 of 2025]

Arising out of Neturia P.S. Case No. 34 of 2025 dated 02.03.2025

under section 46A© of West Bengal Excise Act.

Complainant	STATE OF WEST BENGAL THROUGH O/C Neturia POLICE STATION
REPRESENTED BY	LD. APP
ACCUSED	Dipak Mandal
REPRESENTED BY	Ravi Sharma

**Form B**

**[directed by the Hon'ble Supreme Court in SUO MOTO WRIT (CRL) NO. (S) 1/2017; IN RE: TO ISSUE CERTAIN GUIDELINES REGARDING INADEQUACIES AND DEFICIENCIES IN CRIMINAL TRIALS V. THE STATE OF ANDHRA PRADESH & ORS.**

Date of Offence	02.03.2025
Date of complain	02.03.2025
Date of PR	08.04.2025
Date of Plea	15.12.2025
Date of commencement of evidence	12.02.2026
Date on which judgment is reserved	09.03.2026
Date of the Judgment	09.03.2026
Date of the Sentencing Order, if any	ACCUSED PERSON HAS BEEN ACQUITTED

Accused details:

Sl.	Name of Accused	Date of Arrest	Date of release on bail	Offences charged with	Whether acquitted or convicted	Sentence imposed	Period of Detenti on Underg one during trial for purpose of Section 428 Cr.P.C.
1.	Dipak Mandal	03.03.2025 (arrested)	04.03.2025	46A(c) of West Bengal Excise Act	Acquitted	NA	NA

**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)
PW1	Sasanka Sekhar Bai	Police personnel and seizure witness
PW2	Tarapada Tudu	Police personnel and seizure witness
PW3	Rajib Lochan Mahato	NVF personnel and seizure witness

**B. Defence Witnesses, if any:**

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
DW	NIL	NIL

**C. Court Witnesses, if any:**

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
CW	NIL	NIL

**List of Prosecution/ Defence/ Court Exhibits**

• **Prosecution:**

Sr. No.	Exhibit Number	Description	date	remarks
1.	Exhibit P1/1	Signature of PW1 on seizure list dated 02.03.2025	12.02.2026	W.O.
2.	Exhibit P1/2	Signature of PW2 on seizure list dated 02.03.2025	12.02.2026	W.O.
3.	Exhibit P1/2	Signature of PW3 on seizure list dated 02.03.2025	12.02.2026	W.O.

• **Defence:**

Sr. No.	Exhibit Number	Description
NIL	NIL	NIL

• **Court Exhibits:**

Sr. No.	Exhibit Number	Description
NIL	NIL	NIL

• **Material Objects:**

Sr. No.	Exhibit Number	Description
NIL	NIL	NIL

**J U D G M E N T**

**Facts of the case:**

The prosecution case in brief is that on 02.03.2025 at about 22:05 hours SI Sourav Kanti Das of Neturia Police Station received a source information that illicit liquor was being stored and sold at Mandal Hotel situated at Maheshnadi Check Post under Neturia Police Station. Acting upon such information, the police officer along with force proceeded to the said place and conducted a raid.

During the raid, accused Dipak Mandal was allegedly found keeping and selling liquor in his hotel without possessing any valid licence or authorization. During the search the police allegedly recovered eight sealed bottles of "CAPTAIN" country spirit containing 600 ml each and one plastic jerrican containing approximately sixteen litres of illicit distilled liquor. The said articles were seized under a seizure list in presence of witnesses and samples were collected.

Thereafter the accused was arrested and Neturia P.S. Case No. 34 of 2025 dated 02.03.2025 under Section 46A(c) of the Bengal Excise Act, 1909 was started against him. During investigation the Investigating Officer examined the witnesses, visited the place of occurrence and prepared sketch map. The seized samples were sent to the Chemical Examiner for analysis.

**Evidence adduced**

The prosecution has adduced 03 witnesses among the witnesses arrayed in the charge sheet. All the witnesses have been cross-examined by the learned advocate for the accused person. The complainant of this case has not been examined in this case though efforts were taken to secure his presence. However the prosecution has laid evidence in documentary form which are enumerated above.

With such materials in hand, and post hearing arguments from the side of the defense and prosecution, this Court intends to address the present case by disposing the following points for determinations:

**Points for Determination**

After exhausting the above procedures the case was posted for hearing of arguments. On completion of arguments as per requirement of Section 354 of the Cr.P.C it is the incumbent duty of this court formulate the points for determination and assign reasons for harbouring to any conclusion on those points. After considering every possible facet in this case and considering the materials available the points for determination are arrayed as under:

1. Whether the accused did the overt acts as alleged?
2. Whether the prosecution has been able to prove its case?

**Decision with reason**

Point number 01 and 02:

Both the points being related with each other is taken up together for discussion and adjudication. Ld lawyer for the accused persons during the course of argument submitted that the prosecution has miserably failed to prove the charges framed against the accused persons and for that reason the accused persons must be acquitted. Ld A.P.P representing the prosecution raised cavil against the contention of ld lawyer for the accused persons and in all his fairness submitted that there are not adequate materials on record against the accused persons.

In order to usher in an apt and sagacious adjudication, the first point that needs discussion is, on whom the burden of proof lies and to what extent that needs to be discharged. In criminal jurisprudence the accused always has a presumption of innocence in his favour and the rule of evidence which has received judicial sanction is; the prosecution

must prove the guilt of the accused, i.e., it must establish all the ingredients of the offence with which he/she is charged. The anvil for testing and interpreting what constitutes 'prove of guilt' in a criminal trial has been formulated by the Honourable Apex Court. While in civil cases facts may be proved by a mere preponderance of evidence, whereas in criminal cases the prosecution must prove the charge beyond reasonable doubt. In AIR 1966 SC 01 it was observed by the Honourable Apex Court on page 3, that:-

"If upon the evidence adduced in the case whether by the prosecution or by the accused a reasonable doubt is created in the mind of the Court as regards one or more of the ingredients of the offence including mens rea of the accused he would be entitled to be acquitted."

Thus from the above discussion and based on the canons of criminal trial that has been formulated by catena of decisions of the Honourable Courts, there is no quandary over the legal proposition that the general burden of proof is always upon the prosecution; and if, on the basis of the evidence adduced by the prosecution or by the accused, there is a reasonable doubt whether the accused committed the offence he is entitled to the benefit of doubt. Thus being guided by the above proposition of law; this court must set out a voyage in the evidences available on record to see whether the prosecution has been able to prove the act/occurrences which constitute the offence and whether it has managed to connect the accused persons with such offence.

As already pronounced in this judgment; the prosecution is vested with the indelible duty to prove beyond reasonable doubt that the accused had committed the offence with the requisite mens rea; and the burden of proving that; always rests on the prosecution from the beginning to the end of the trial.

PW1 Sasanka Sekhar Bai during his examination-in-chief stated that on 02.03.2025 he was posted at Neturia Police Station and on that day he was on mobile duty along with SI Sourav Das, Constable Tarapada and NVF Rajendra. They received information that some miscreants were selling illicit liquor at Mandalpur. Thereafter they conducted a raid at the said place and seized illegal country-made liquor and arrested the accused Dipak Mandal. The accused present before the Court was identified by him. The officer seized the liquor and the seizure list dated 02.03.2025 bearing his signature was marked as Exhibit P1/1. During his cross-examination he stated that he signed the seizure list as per direction of his superior officer and he could not identify the seized articles before the Court. He further stated that he did not test the liquor and he had no chemical examination report.

PW2 Tarapada Tudu during his examination-in-chief stated that on 02.03.2025 he was posted at Neturia Police Station and was on mobile duty along with SI Sourav Das, Constable Sasanka Sekhar and NVF Rajendra. They reached Maheshnadi and thereafter conducted a raid and seized illegal country-made liquor and arrested the accused. The liquor was seized by the officer and the seizure list dated 02.03.2025 bearing his signature was marked as Exhibit P1/2. During his cross-examination he stated that he signed the seizure list as per direction of his superior officer. He also stated that he could not identify the seized articles before the Court and he could not say whether it was liquor as he did not test it and he had no chemical examination report.

PW3 Rajib Lochan Mahato during his examination-in-chief stated that on 02.03.2025 he was posted at Neturia Police Station and on that day he was on mobile duty along with SI Sourav Das. They reached Maheshnadi Check Post and thereafter conducted a raid at Mandal Hotel where illegal country-made liquor was seized and the accused Dipak Mandal was arrested. The seizure list dated 02.03.2025 bearing his signature was marked as Exhibit P1/2. During his cross-examination he stated that he signed the seizure list as per direction of his superior officer and he could not identify the seized articles before the Court. He further stated that he did not test the liquor and he had no chemical examination

report.

In a criminal trial the burden always lies upon the prosecution to prove the guilt of the accused beyond all reasonable doubt. The accused is presumed to be innocent unless the prosecution successfully establishes each ingredient of the offence through reliable, cogent and trustworthy evidence.

In the present case the allegation against the accused is illegal possession and sale of liquor in contravention of the provisions of the Bengal Excise Act. To bring home the charge under Section 46A(c) of the Bengal Excise Act the prosecution must establish that the accused was in conscious and unlawful possession of intoxicant liquor and that such possession was without valid licence or authorization.

Upon careful scrutiny of the evidence on record it appears that all the witnesses examined in this case are police personnel or persons accompanying the police party during the raid. No independent local witness has been examined to support the alleged seizure of liquor from the possession of the accused. Though non-examination of independent witnesses is not always fatal, the court must examine such evidence with greater caution particularly when the entire case rests upon official witnesses.

Furthermore, the evidence of the prosecution witnesses reveals a significant weakness in the prosecution case. All the witnesses during cross-examination have clearly stated that they cannot identify the seized articles before the Court. They have also categorically admitted that they did not test the liquor and they do not have any chemical examination report confirming that the seized substance was indeed liquor.

In cases involving alleged seizure of intoxicants, the chemical examination report plays an important role in establishing the nature of the seized substance. In the absence of such scientific evidence, the prosecution fails to conclusively prove that the seized articles were actually liquor within the meaning of the Bengal Excise Act. In the present case, although it has been mentioned that samples were sent to the Chemical Examiner, the chemical examination report has not been produced before the Court.

The Hon'ble Supreme Court in *Vijay Pandey vs State of Uttar Pradesh* (2019) 3 SCC 778 has held that when the alleged contraband article is not produced before the court or its nature is not proved through reliable evidence, the prosecution case becomes doubtful and the accused is entitled to benefit of doubt.

Similarly, in *Noor Aga vs State of Punjab* (2008) 16 SCC 417, the Hon'ble Supreme Court emphasized that the prosecution must strictly prove the recovery and the nature of the seized substance, and any serious lacuna in the chain of evidence must go in favour of the accused.

In the present case the prosecution witnesses themselves have admitted that they cannot identify the seized articles before the Court. The prosecution has also failed to produce the chemical examination report confirming that the seized substance was liquor. These shortcomings create serious doubt regarding the nature of the seized articles and the alleged possession of liquor by the accused.

It is a well settled principle of criminal jurisprudence that when two views are possible on the evidence on record, the view favourable to the accused must be adopted. The Hon'ble Supreme Court in *Sharad Birdhichand Sarda vs State of Maharashtra* (1984) 4 SCC 116 reiterated that suspicion, however strong, cannot take the place of proof.

Therefore, considering the absence of independent witnesses, inability of the witnesses to identify the seized articles, and non-production of the chemical examination report, this Court finds that the prosecution has failed to prove the charge against the accused beyond reasonable doubt.

Accordingly, the accused Dipak Mandal is entitled to the benefit of doubt and

deserves to be acquitted from the charge under Section 46A(c) of the Bengal Excise Act.

Hence, it is

ORDERED

That the accused person namely Dipak Mandal is found not guilty of the charge under section 46 A (c) of the Bengal Excise Act . as was leveled against him.

He is hereby acquitted from said charges under Section 255(1) of the Code of Criminal Procedure,1973. He be set at liberty forthwith. Surety be released from bond.

Seized articles be destroyed after lapse of appeal period.

Note in the T.R.

Copy of this judgment of acquittal be forwarded to Secretary, DLSA, Purulia and District Magistrate, Purulia for necessary information.

Dated: 09.03.2026

Typed and corrected by me;

Judicial Magistrate 1<sup>st</sup> Court  
Raghunathpur, Purulia

Judicial Magistrate 1<sup>st</sup> Court  
Raghunathpur, Purulia