

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4914 of 2024

Arising Out of PS. Case No.-88 Year-2023 Thana- MATIYARIA District- West Champaran

Sandeep Kumar, S/O Late Teni Prasad, R/O Village- Sherwa Masjidwa, P.O-
Sherwa Masjidwa, P.S- Matiyariya, Distt.- West Champaran.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Manish Chandra Gandhi, Adv. Ms. Prerna Anand, Adv. Mr. Himanshu Ranjan, Adv. Mr. Sudhansu Prakash, Adv.
For the State	:	Mr. S. Ashfaque Ahmad, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL JUDGMENT

Date : 13-07-2026

The instant appeal has been filed by the appellant against the judgment/order dated 07.11.2023, passed by the Court of the learned Exclusive Special Judge, Excise-II, Bettiah, West Champaran, in CIS Excise Case 3284 of 2023, arising out of Matiyariya P. S. Case No. 88 of 2023, whereby the learned trial court has convicted the appellant for the offence under Section 37 of the Bihar Prohibition and Excise (Amendment) Act, 2022 on the basis of plea of guilt.

2. Mr. Manish Chandra Gandhi, learned counsel for the appellant, has argued that while convicting the appellant, the learned trial court wrongly placed reliance upon the breath analyzer test, which cannot form the basis for convicting a



person of the allegation of consuming liquor. It is further submitted that the learned trial court committed an error in convicting the appellant merely on the basis of his plea of guilty, as the same was not voluntary. It is also contended that the appellant was not given sufficient time to understand the consequences of his plea of guilty. It is further submitted that when the petitioner was taken for medical examination, neither his blood sample nor his urine sample was collected for chemical analysis.

3. After going through the trial court's record, this Court finds substance in the contention raised by the learned counsel for the appellant. It appears that there is no material available on record to establish that the petitioner had voluntarily and consciously pleaded guilty to the accusation and on the very day on which the petitioner was produced before the learned trial court by the police, the court proceeded to take cognizance of the offence under Section 37 of the Bihar Prohibition and Excise (Amendment) Act, 2022, explained the accusation to him, and thereafter, as recorded by the learned trial court, the petitioner confessed to the accusation and pleaded guilty. The manner in which the entire proceedings were concluded on the same day does not inspire confidence that the



petitioner was properly apprised of the nature of the accusation or the consequences of entering a plea of guilt. The alleged plea of guilt also does not appear to be voluntary, particularly when the petitioner was produced before the learned trial court directly from police custody and there was no gap of single day between his custody and production before the court to enable him to understand the legal consequences of such plea and further, this Court finds that Rule 18 of the Bihar Prohibition and Excise (Amendment) Rules, 2022 mandates that, where an accused pleads guilty of the offence punishable under Section 37 of the Bihar Prohibition and Excise Act, 2016, the statement of the accused must be recorded in Form VIA and the corresponding order sheet should be prepared in Form VII. The prescribed procedure is statutory obligation not a matter of formality, but in the present case, the order sheet purportedly prepared in Form VII does not bear the signature of the learned Presiding Officer. Such non-compliance with the statutory procedure vitiates the proceedings. It is a settled principle of law that where a statute prescribes that an act is to be done in a particular manner, it must be done in that manner alone and not in any other way as held by the Hon'ble Supreme Court in State of Jharkhand v. Ambay Cements, (2005) 1 SCC 368.



4. For the reasons discussed hereinabove, coupled with the failure of the learned trial court to discharge its statutory obligation while passing the impugned order dated 07.11.2023, this Court is of the considered opinion that the impugned judgment is not sustainable in law. Accordingly, the judgment of conviction and the order of sentence passed against the appellant for the offence punishable under Section 37 of the Bihar Prohibition and Excise (Amendment) Act, 2022, are hereby set aside.

5. The appeal is allowed.

6. The learned trial court is directed to proceed with the trial of the appellant afresh from the stage of explaining the accusation to him in respect of the alleged offence.

7. Let the records of the trial court, along with a copy of this judgment, be sent forthwith to the court concerned for compliance and for doing the needful in accordance with law.

(Shailendra Singh, J)

Rajiv/-

AFR/NAFR	AFR
CAV DATE	NA
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