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HIGH COURT OF CHHATTISGARH AT BILASPUR

CRR No. 1155 of 2026

Sachin Kumar Dewangan S/o Late Yogesh Dewangan, Aged About 23 Years R/o Gayatri Chowk, Ward No. 03, Tikarapara, Dondilohara, District Balod (C.G.)

... Applicant.

Versus

State Of Chhattisgarh Through- District Magistrate Balod C.G. (Arakshi Kendra Dondilohara, District Balod)

... Respondent.

For Applicant	:	Mr. Roshan Singh Lamba, Advocate.
For Respondent	:	Mr. Siddharth Sharma, Panel Lawyer.

(Hon'ble Shri Justice Naresh Kumar Chandravanshi)

Order on Board

06/10/2026

1. By way of this criminal revision preferred under Sections 438 read with 442 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, 'BNSS'), the applicant is challenging the judgment dated 25.08.2026 passed by the learned Sessions Judge, Balod, District Balod (C.G.) in Criminal Appeal No.73/2026, affirming the judgment of conviction and order of sentence dated 15.06.2026 passed by the learned Judicial Magistrate First Class,

Dondilohara, District Balod in Criminal Case No.2026/2024, whereby the applicant has been convicted and sentenced as under:

Conviction	Sentence
Section 34(1)(b) of the Chhattisgarh Excise Act, 1915	Rigorous Imprisonment for 06 months with fine of Rs. 10,000/- (In default of payment of fine further Imprisonment for 30 days)

2. Case of the prosecution, in brief, is that during patrolling, secret information was received by the police officials that a person was standing in an open public area beside the Muktidham Gate on the Country Liquor Store Road, having illegal possession of country-made plain liquor and looking for buyers. Acting upon the said information, Head Constable Yagyadatt Thakur (PW-4) sent Constable Punam Chand Khare (PW-3) as a dummy purchaser with one currency note of Rs.100 denomination, which was also marked with **"*"**. Subsequently, dummy purchaser purchased one bottle containing 180 ml of country-made plain liquor by paying the marked Rs.100 currency note. Upon giving signal, the raid was conducted by the police officials and 19 bottles of country-made plain liquor, each containing 180 ml, total 3.420 bulk litres, were recovered from the bag of the applicant. Further, two currency notes of Rs.100 denomination, including the said marked Rs.100 note which had been given to the dummy purchaser, were also recovered from the shirt pocket of the applicant. Subsequently, Dehati Nalshi (Ex.P-21) was registered, on the basis of which, FIR was registered at Police Station Dondilohara. The raid and search procedures were also videographed.

3. After completion of the investigation, the charge-sheet for the offence under Section 34(1)(b) of the Chhattisgarh Excise Act, 1915, was filed against the applicant before the Trial Court. The learned Trial Court read over the charge

and explained the same to the applicant. The applicant abjured the charge and claimed trial. The prosecution examined a total of five witnesses (PW-1 to PW-5) and marked Exhibits P-1 to P-32, along with physical articles. The statement of the applicant was recorded under Section 351 of the BNSS. He pleaded innocence and false implication, however, he did not examine any defence witness.

4. On the basis of material available on record and after hearing learned counsel for the parties, learned trial Court has convicted and sentenced the applicant as mentioned in initial Para of this order. On appeal preferred by the applicant against his conviction and sentence, learned Sessions Judge has dismissed the appeal and affirmed the conviction and sentence imposed on the applicant. Being dissatisfied, this revision has been preferred.

5. Learned counsel for the applicant submits that the impugned judgments of conviction and order of sentence are bad in law, as the same have been passed by the Courts below without appreciating the evidence in its true perspective. He further submits that the applicant has no prior criminal antecedents. The independent witnesses, namely, Trilok Kumar (PW-1) and Prakash Sahu (PW-5), have turned hostile and have not supported the case of the prosecution. He also submits that the seizure memo does not mention the presence of any person before whom the same was prepared. Apart from this, the Malkhana Register has also not been produced by the prosecution. Therefore, this revision deserves to be allowed, the impugned judgments of conviction and order of sentence are liable to be set aside and the applicant is entitled to be acquitted of the charges levelled against him.

6. On the other hand, learned State Counsel supports the impugned judgment. He submits that there is cogent evidence available on record establishing

involvement of the applicant in commission of crime in question and sentence is also just and proper and does not call for any interference invoking revisional jurisdiction.

7. I have heard learned counsel for the parties at length and perused the record with utmost circumspection.

8. The prosecution case is based primarily on the interception, trap, and recovery of illicit country-made plain liquor effected on 06.10.2024 near Muktidham Gate, Liquor Store Road, Dondilohara.

9. Head Constable Yagyadatt Thakur (PW-4), the In-charge of the raiding party and Investigating Officer, stated in his deposition that the dummy purchaser (PW-3) has purchased one quarter of country made liquor by giving marked note of Rs.100/-. After receiving the signal from dummy purchaser, the raiding party, along with the independent witnesses, immediately surrounded the spot and stopped the applicant. During his personal search (Ex.P-9), a reddish-brown bag was found containing 19 quarters country-made plain liquor, each pouch contained 180 ml of liquor and the total quantity was 3.420 bulk litres. This witness has deposed regarding the credible secret informant information, compliance with statutory requirements, deployment of a dummy purchaser, and subsequent recovery of the contraband. His testimony reveals that two independent witnesses, Trilok Kumar (PW-1) and Prakash Sahu (PW-5), were summoned through notices under Section 179 of the BNSS vide Ex.P-1.

10. The primary defence of the applicant herein is that independent witnesses Trilok Kumar (PW-1) and Prakash Sahu (PW-5) turned hostile and did not support the case of search and seizure. However, on examining their evidence PW-1 has stated in his deposition that he had gone to Police Station

Dondilohara for some personal work, where he signed the papers prapred by the Police officials. PW-5, in his deposition, stated that he had gone near the Dondilohara wine shop road and signed the papers prepared by the police officials. Further, though they have denied the statement regarding the incident, however, both PW-1 and PW-5 admitted their signatures on all the documents prepared during the proceedings. These documents include the notice under Section 179 BNSS (Ex.P-1), departure memo (Ex.P-2), signal memo (Ex.P-3), search memos (Ex.P-8 and Ex.P-9), recovery memo (Ex.P-11), test-purchase memo (Ex.P-12), seizure memos (Ex.P-13 and Ex.P-14), sealing panchnama (Ex.P-15), spot map (Ex.P-16), and arrest memo (Ex.P-17).

11. Statement of PW-1 and PW-5 that they signed more than a dozen police documents without knowing their contents does not appear natural or convincing. The defence also failed to establish that their signatures were obtained by force, pressure or misrepresentation.

12. It is a settled principle of law that the evidence of police officials cannot be rejected merely because the independent seizure witnesses have turned hostile. Hostility of indpendent witnesses is not uncommon in criminal cases. In the case of **Rizwan Khan Vs. State of Chhattisgarh (2020) 9 SCC 627** it has been reiterated by the Hon'ble Supreme Court that the testimony of the official witnesses cannot be rejected on the ground of non-corroboration by independent witness.

13. The nature and contents of the seized liquor were also proved by Excise Sub-Inspector Roshan Lal Banjare (PW-2). He stated that he received the sealed bag containing 20 bottles from Police Station Dondilohara through Head Constable Arvind Yadav (No. 1697), along with requisition Ex.P-25. After

opening the seals, he examined samples from the pouches. He conducted visual, smell and taste examination. The blue litmus paper test showed neutral acidity. He also certified that the seized substance was illicit country-made plain liquor vide report Ex.P-19.

14. The Investigating Officer, PW-4, further stated in his evidence from Para 15 onwards that he has produced the original General Diary, including the Rojnamcha Sanha regarding departure and return, as well as the Maal Register before the Trial Court. Copies of the same were marked as Ex.P-27C, Ex.P-28C and Ex.P-29C. Therefore, the argument regarding Malkhana Register is not acceptable.

15. Furthermore, Head Constable Yagyadatt Thakur (PW-4) gave a clear and consistent account of receiving the secret information, preparing the trap, issuing the search notices and carrying out the recovery. His evidence is supported by Constable Punam Chand Khare (PW-3), who acted as the dummy purchaser, paid the marked Rs.100 note and purchased one pouch of illicit liquor. Nothing material was brought out in the cross-examination of PW-3 and PW-4 to doubt their evidence. The defence also could not show that the police officials had any previous enmity or reason to falsely implicate the applicant.

16. On an overall assessment of the evidence, considering the quantity of liquor and the manner in which it was illegally used for sell, the concurrent findings of conviction recorded by both the learned trial Court and the learned appellate Court are based on meticulous evaluation of trustworthy ocular evidence, dependable documentary records, scientific analysis, and electronic corroboration. The findings do not suffer from any perversity,

patent error of law, or jurisdictional illegality so as to warrant interference in revisional jurisdiction.

17. Being so, there is no reason for this Court to take a different view to the one taken by both the Courts below while convicting and sentencing the accused/applicant as described above. Therefore, this Court approves the well reasoned findings recorded by both the Courts below holding the accused/applicant guilty under Section 34 (1) (b) of the C.G. Excise Act.

18. As regards sentence, a perusal of the record reflects that under Section 34(1) of the Chhattisgarh Excise Act, 1915, the legislature has mandated a statutory minimum sentence of imprisonment for a term which shall not be less than six months, extendable up to two years, along with a mandatory minimum fine of not less than Rs. 10,000/-, extendable up to Rs. 50,000/-. The learned trial Court looking to quantity of liquor and the manner in which it was illegally used for sell, has taken an exceptionally lenient and balanced view in awarding only the bare minimum substantive sentence of 06 months' rigorous imprisonment and a fine of Rs. 10,000/- upon the applicant. The punishment imposed is appropriate and strictly in conformity with the statutory law.

19. The applicant is reported to be on bail. He is directed to surrender before the concerned trial Court within a period of 20 days from today to undergo the remaining sentence. The period already undergone by the applicant in jail, if any, shall be adjusted in accordance with law.

20. Accordingly, the present revision petition stands dismissed.

21. Pending application(s), if any, stands disposed of.

Sd/-
(Naresh Kumar Chandravanshi)
Judge

Ajay