



**In the Court of the Special Judicial Magistrate of First Class,
(Prohibition and Excise Cases), Anantapuramu**

**Present: Smt D.Pavani,
Special Judicial Magistrate of First Class,
(Prohibition and Excise Cases), Anantapuramu**

**Monday, the 27th Day of July, 2026
Calendar Case No.2295 of 2022**

Between:-

State Represented through Enforcement Inspector,
SEB Station, Ananthapuramu.

...Complainant.

AND

1. Sugali Praveen Kumar Naik, Aged 21 Years,
S/o. Sugali Krishna Naik,
R/o. 5-56-a, S. Mallapuram Village,
Kundurpi Mandal.

2. Anil Naik, Aged 24 Years,
S/o. Umapathi Naik,
R/o. 5-8, S.Mallapuram Village,
Kundurpi Mandal.

...Accused No.1 and 2

This case came before me on 27.07.2026 for final hearing before me in the presence of APP for the state and of Sri B. Anand Kumar, Sri G. Ramamurthy and Sri H. Lakshmi Narayana, Advocates for Accused No.1 and 2 and upon hearing both sides and having perused the material on record, this court delivered the following:

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

1. The State, represented by the Enforcement Inspector, SEB Station, Ananthapuramu, filed a charge sheet against Accused No.1 and 2 in Crime No.10 of 2021 for the offence punishable under Sections 34(a) r/w 34 (i) Andhra Pradesh Excise Act, 2020.

2. a) The case of the prosecution is that on 12.01.2022 at 4.30 PM., Lw4/R. Ravichandra conducted route watch with DTF, SEB



Ananthapuramu along with their staff and reached in front of Intell Engineering College on Ananthapuramu to Kalyandurgam Bus road of Ananthapuramu Rural and found that accused were in possession of two zip bags and coming on motorcycle and one zip bag keeping on petrol tank and another one keeping in between them and on seeing the raid party in uniform, accused No.1 and 2 tried to turn the motorcycle and escape from that place and that they caught-hold and enquired the Accused No.1 and 2 and that the accused No.1 and 2 confessed their identity as Sugali Praveen Kumar/A1 and Anil Naik/A2.

b) Later, Lw4/R. Ravichandra verified the first zip bag and found it is in Blue color and containing 240 (90 ML.,) Haywards Cheers Whiskey Tetra packets and later he verified the second zip bag and found it is in Red colour and containing 240 (90 ML.,) Haywards Cheers Whiskey Tetra packets for sale in Karnataka and after verifying the motorcycle and found it is a Black and Red Color Bajaj Pulsar NS 125 with Reg.No.AP39-KE-9196.

c) The accused No.1 and 2 stated that they brought liquor in Y.N.Hosakote of Karnataka State to sell the liquor in Ananthapuramu town and that Lw4/R. Ravichandra drawn 90 ML., Tetra packet of Haywards Cheers Whiskey from each zip bag and sent the sample for Chemical Examiner, Chittoor for analysis and the remaining liquor packets and motorcycle were seized under cover of mahazarnama.

d) Basing on the mahazarna, Lw4/R. Ravichandra registered a case in Cr.No.10.2022, dt.12.01.2021 for the offence U/sec.34(a) r/w 34 (i) of Andhra Pradesh Excise Act and sent the accused No.1 and 2 into judicial remand on 13.01.2022 and after completion of investigation he filed charge sheet against the accused No.1 and 2.

3. On appearance of the Accused No.1 and 2, copies of case records were furnished to them as required under Section 207 Cr.P.C. The



Accused No.1 and 2 were examined under Section 239 Cr.P.C. The substance of accusation was read out and explained to them in Telugu, for which they denied and claimed to be tried.

4. To support its case, the prosecution examined PWs 1 to 4 and marked Exhibits P1 to P3 and Mo.1 and Mo.2 are marked. No witnesses were examined and no documents were marked on behalf of the Accused No.1 and 2.

5. After closure of prosecution evidence, the Accused No.1 and 2 were examined under Section 313 Cr.P.C by explaining the incriminating evidence in Telugu, for which they denied and reported no evidence.

6. The learned Assistant Public Prosecutor argued that the prosecution proved the guilt of the Accused No.1 and 2 beyond reasonable doubt, as PW3 and PW4 consistently stated that the Accused No.1 and 2 were in possession of NDPL liquor for selling and committed the offence, substantiated by Exhibits P1 to P6. Hence, she prayed for conviction with maximum sentence.

7. Per contra, the learned counsel for the Accused No.1 and 2 argued that PW3 and PW4 are official witnesses and Pw1 and Pw2 are the independent mediators and they did not support the case of the prosecution in this case. He contended that the prosecution failed to establish the nexus between the scene of offence and the Accused No.1 and 2 and that the Accused No.1 and 2 were falsely implicated for statistical purposes and prayed for acquittal of Accused No.1 and 2.

8. Now the point for determination is:

Whether the prosecution proved the guilt of the Accused No.1 and 2 for the offence punishable Under Section 34(a) r/w 34 (i) of Andhra Pradesh Excise Act beyond all reasonable doubt?



9. Point:-

i) To Substantiate its case prosecution got examined PW1 to 4 and got marked Ex.P1 to P6 and Mo.1 and Mo.2. PW3 and 4 are police officials. Pw1 and Pw2 did not support the case of the prosecution.

ii) PW3 and 4 deposed that on 12.01.2022 at 4.30 PM., Pw4 conducted route watch with DTF, SEB Ananthapuramu along with their staff went in front of Intell Engineering College on Ananthapuramu to Kalyandurgam Bus road of Ananthapuramu Rural and found that accused were in possession of two zip bags and coming on motorcycle and that Pw4 verified the first zip bag and found it is in Blue color and containing 240 (90 ML.) Haywards Cheers Whiskey Tetra packets and later he verified the second zip bag and found it is in Red colour and containing 240 (90 ML.) Haywards Cheers Whiskey Tetra packets for sale in Karnataka and later he verifying the motorcycle and found it is a Black and Red Color Bajaj Pulsar NS 125 with Reg.No.AP39-KE-9196 and that Pw4 registered a case in Cr.No.10.2022, dt.12.01.2021 for the offence U/sec.34(a) r/w 34 (i) of Andhra Pradesh Excise Act and filed charge sheet against accused No.1 and 2. However, the prosecution did not produce any independent witness to corroborate the seizure.

iii) During the cross examination of Pw1 and Pw2, they did not support the case of the prosecution. The PW3 and 4 are categorically stated that scene of offence is a busy locality and no local mediators were secured, but they have already secured Pw1 and Pw2 except Pw1 to Pw3 and police none were present at the time of arrest and seizure.

iv) Before conducting any search under/sec.100(4) Cr.P.C mandates that before conducting any search, two or more independent and respectable inhabitants of the locality should be called to witness the search. No



explanation was forthcoming from the prosecution as to why such mediators were not secured. Even though the scene of offence is admitted as busy locality. The evidence of PW3 and PW4 revealed that only police officials participated in the raid along with Pw1 and Pw2.

v) According to the Judgment of Hon'ble High court of AP in Yedduri Srinivasarao v/s State of AP 2002(1) ALD criminal 347, wherein, while dealing with the application of Section 100(4) of Criminal Procedure Code, it has been held that non passing of written order to procure presence of a witness makes the entire search conducted by the prosecution vitiated, being without jurisdiction and as a necessary corollary. As per the case of prosecution though they tried to secure the mediators, none came forward to act as mediators for the seizure of contraband. When the place of offence is busy locality where there is movement of the public and there is every possibility to public to act as mediators, it is highly improbable to believe the version of prosecution that none came forward to act as mediators for the seizure of contraband. In such circumstances it is not safe to place reliance on the interested testimony of PW.1 and 2. All these facts lead to inference that the police officials have failed to secure two or more independent or respectable inhabitants of locality for seizure of contraband. Consequently, the seizure of contraband as alleged from Ex.P3 vitiated. As per the evidence of P.W.3 and 4, it is evident that P.W.3 and 4 did not make sufficient efforts to secure the presence of any independent witness or Village Sarpanch, Ward Members, or V.R.O to act as mediators. Further more, Police who is the complainant in the case is the investigating officer. In this context, it is pertinent to refer to the observations of Hon'ble High Court of AP in Podhaturi Satyam Reddy Vs. State of AP reported in 2001(1) ALT (Crl.) 66 AP wherein his lord ship held that:



“The position of law is well settled. In this case PW.3 was informant rather the complainant. He himself took up the investigation and filed charge sheet. Certainly, this is an infirmity in this case. This certainly reflects the credibility of the investigation done in the matter. The prosecution cannot rely upon the evidence of PW.1 solely. The courts below were not correct in relying upon this evidence. Hence, the benefit of this procedural irregularity is given to the Accused No.1 and 2”.

This Court in view of the above rulings is of the view that the procedure contemplated under Section 100(4) CrPC was not followed. The absence of independent witnesses raises reasonable doubt regarding the seizure of illicit arrack from the Accused No.1 and 2 in the present case.

10. At this juncture, it must be noted that the only witness in support of the prosecution is Pw3 and Pw4, who are police official. Basing them there are no other independent witness. The only other witnesses Pw1 and Pw2, who came forward was declared hostile and deposed that he doesn't know any facts of the case. Hence prosecution lacks adequate evidence to prove that the Accused No.1 and 2 has committed the offence as alleged.

11. Having regard to the material on record, the testimonies of PW1 to PW4 coupled with Exhibits P1 to P6 are not sufficient to prove that the illicit liquor was seized from the possession of the Accused No.1 and 2. Hence, this Court holds that the prosecution failed to prove the guilt of the Accused No.1 and 2 for the offence Under Section 34(a) r/w 34 (i) of A.P Excise Act beyond all reasonable doubt. The point is answered in favour of the Accused No.1 and 2 and against the prosecution.

12. In the result, the Accused No.1 and 2 are found **not guilty** for the offence punishable Under Section 34(a) r/w 34 (i) of Andhra Pradesh Excise Act and accordingly and they are acquitted under Section 248(1)



Criminal Procedure Code. The bail bonds of the Accused No.1 and 2 shall remain in force for a period of six months as per Section 437-A Criminal Procedure Code and Mo.1 and Mo.2 shall be destroyed after expiry of the appeal period.

Typed to my dictation by the stenographer, corrected and pronounced by me in open court, this the 27th day of July, 2026.

Sd/- D. Pavani

Special Judl Magistrate of I Class for trial of
cases under A.P. Prohibition and Excise Act-
Cum-III Addl Junior Civil Judge, Ananthapuramu

Appendix of Evidence
Witnesses Examined

Prosecution

PW1 : Subhahana
PW2 : K. Mahaboob Basha
PW3 : J. Satish Kumar
PW4 : R. Ravichandra

Defence

Nil

Exhibits marked for Prosecution

Ex.P1 : Signature on Mahazarnama, dt.12.01.2022.
Ex.P2 : Signature on Panchayathnama, dt.12.01.2022.
Ex.P3 : Mahazarnama.
Ex.P4 : First Information Report.
Ex.P5 : Letter of Advise.
Ex.P6 : Analysis report

Exhibits marked for Defence:Nil

Material objects:

Mo.1: Samples
Mo.2: Samples

Sd/- D. Pavani
Spl. J.M.F.C-
cum- III AJCJ.



CALENDAR AND JUDGMENT

District :: ANANTHAPURAMU.

CALENDAR CASES TRIED IN THE COURT OF SPECIAL JUDICIAL FIRST CLASS MAGISTRATE FOR PROHIBITION AND EXCISE CASES, ANANTAPURAMU.

Date of Offence	Report or Complaint	Apprehension of Accused No.1 and 2	Released on bail	Commencement of trial	Close of trial	Sentence Order
12.01.2022	12.01.2022	12.01.2022	18.01.2022	06.07.2026	27.07.2026	27.07.2026

Calendar and Judgment in **C.C.No.2295/2022** on the file of Special Judicial First Class Magistrate for Prohibition and Excise Cases, Ananthapuramu.

Complainant: The Enforcement Inspector, SEB Station, Ananthapuramu.

Crime No: 10/2021

Name of the Accused No.1 and 2	Age	Father's or Husband's Name	Calling	Residence	Mandal
Sugali Praveen Kumar	21 Years	Sugali Krishna Naik	-	S. Mallapuram	Kundurpi
Anil Naik	24 Years	Umapathi Naik	-	S. Mallapuram	Kundurpi

Offence: U/Sec.34(A) of Andhra Pradesh Excise Act.

Finding: Not guilty.

Sentence: In the result, the Accused No.1 and 2 are found **not guilty** for the offence punishable Under Section 34(a) r/w 34 (i) of Andhra Pradesh Excise Act and accordingly and they are acquitted under Section 248(1) Criminal Procedure Code. The bail bonds of the Accused No.1 and 2 shall remain in force for a period of six months as per Section 437-A Criminal Procedure Code and Mo.1 and Mo.2 shall be destroyed after expiry of the appeal period.

Explanation for delay: On 15.06.2023 Accused No.1 and 2 were examined under Section 239 Cr.P.C. During the course of trial, PWs.1 to 4 were examined and marked Exs.P1 to P6 and Mo.1 and 2. On 27.07.2026 Accused No.1 and 2 were examined U/s.313 Cr.P.C, they denied the same and reported no defence evidence. Heard both sides. Judgment pronounced on 27.07.2026. Hence, the delay.

Sd/- D. Pavani

Special Judl Magistrate of I Class for trial of cases under A.P. Prohibition and Excise Act-cum-III Addl Junior Civil Judge, Ananthapuramu

1. Copy submitted to the Hon'ble I Addl. Sessions Judge, Anantapuramu.
2. Copy to the Superintendent, Proh. And Excise, Obuladevnagar, Anantapuramu.

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