

KACB010008292023



Presented on : 26-05-2023
Registered on : 26-05-2023
Decided on : 01-08-2026
Duration : 03 years 02 months 06 days

IN THE COURT OF PRL. DISTRICT AND SESSIONS JUDGE,
AT : CHIKKABALLAPURA

Dated this the 1st day of August 2026

Present:

Sri. T.P.RAMALINGE GOWDA,
B.Sc., LL.M., M.B.A.
Principal District & Sessions Judge,
Chikkaballapura.

SPECIAL CASE NO.41 OF 2023

COMPLAINANT/S: State by:
CEN Crime Police Station,
Chikkaballapura.
(Represented by Public Prosecutor)

//Versus//

ACCUSED: Venugopal.K.S
S/o Sathyanarayanappa,
aged about 39 years,
r/at Ward No.14, Kandavara,
Chikkaballapura Town,
Chikkaballapura District.
(Represented by Sri.P.S., Advocate)

TABULATION OF EVENTS

1. Date of Commission of offence :20.09.2022
2. Date of report of offence :20.09.2022

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| 3. Date of arrest of accused | :20.09.2022 |
| 4. Date of release of accused from
Judicial custody | :03.10.2022 |
| 5. Period of judicial custody | Year/s Month/s Day/s
- 00 13 |
| 6. Name of the complainant | :Sharath Kumar.B.N., PSI |
| 7. Nature of offences complained | : Sections 20(a) of Narcotic
Drugs and Psychotropic
Substances Act, 1985 |
| 9. Date of commencement of recording
of evidence | :23.12.2025 |
| 10. Date of closing of evidence | :09.03.2026 |
| 11. Date of Judgment | :01.08.2026 |
| 12. Opinion of the Judge | : As per final order |

J U D G M E N T

The Police Inspector, CEN Crime Police station, Chikkaballapura has laid down the charge-sheet against the accused in Crime No.68/2022 of their police station alleging that he has committed the offence punishable under Section 20(a) of Narcotic Drugs and Psychotropic Substances Act, 1985 (Herein after referred in short as '**NDPS Act**').

2. The case of the prosecution in brief as alleged in the charge sheet is that on 20.09.2022 the first informant has received credible information that the accused had cultivated ganja plants in the land bearing Sy.No.160 situated at Kandavara Village, Chikkaballapura taluk. Accordingly, when he conducted raid on the said place along with his staff and panchas they found that the accused

had grown five ganja plants comprising leaves, stems, and branches in the middle of rose and crossandra flower plants in the said land, the said ganja plants were uprooted and were weighing 10 kg 136 grams, the same were seized by conducting mahazar in the presence of panchas. It is alleged that the accused with an intention to make money cultivated ganja plants in land bearing Sy.No.160 situated at Kandavara belonging to Pw.5 without intimating the said fact to him. With these allegations charge sheet came to be filed against the accused for the offence punishable under Sections 20(a) of NDPS Act.

3. After receipt of the charge-sheet, Special Case No.41/2023 was registered and took cognizance of the offence. Accused was enlarged on bail. Thereafter, my learned predecessor has heard the counsels for both sides and perused the records being found sufficient materials for having commission of offence by the accused, charge for the offence punishable under Section 20(a) of NDPS Act was framed and readover to the accused. He pleaded not guilty and claims to be tried. Hence, the trial was taken up.

4. During the course of trial, to prove its case prosecution has examined 7 witnesses out of 12 charge sheeted witnesses as Pw.1 to Pw.7 and got marked 19 documents at Ex.P1 to Ex.P19 and one material object at MO.1. Ex.D1 was confronted and got marked

through Pw.4 during the course of his cross-examination. Ex.D2 was confronted and got marked through Pw.7 during the course of his cross-examination.

5. Accused has been subjected for examination as required under Section 313 of Cr.P.C. in order to enable him to offer any plausible explanation about the incriminating evidence and circumstances brought against him during trial by the prosecution. Accused has denied the entire case of the prosecution as false. But he has not chosen to give defence evidence.

6. Heard the arguments of both sides and perused the materials available on record.

7. Having perused the materials available on record on the prevailing legal scenario, the points that arise for my consideration are:-

- 1) Whether the prosecution proves beyond reasonable doubt that on 20.09.2022 the first informant has received credible information about cultivation of ganja plants by the accused in land bearing Sy.No.160 situated at Kandavara Village and accordingly when he conducted raid along with staff and panchas, they found that the accused had grown five ganja plants comprising leaves, stems and branches in the middle of rose and crossandra flower

plants in the said land, the said ganja plants were weighing 10 kg 136 grams and the same were cultivated with an intention to sell the same illegally to the public and without the knowledge of the owner of the said land and thereby accused has committed an offence punishable under Sections 20(a) of Narcotic Drugs and Psychotropic Substances Act, 1985?

2) What order?

8. My findings on the above said points are as under;

Point No.1: ***In the Negative.***

Point No.2: ***As per final order for the following;***

REASONS

9. **Point No. 1:-** During the course of arguments learned ***Public Prosecutor*** has vehemently argued that except the panch witnesses, all other prosecution witnesses have supported the case of the prosecution in its entirety. The accused is unable to elicit any contradictions and omissions in the case of the prosecution. Since the prosecution has discharged its initial burden, the presumption available under law shall be drawn against the accused. Accused person has neither adduced his defence evidence nor offered any plausible explanation to rebut the presumption available against him

under law. Consequently, it is argued that prosecution has proved the case beyond reasonable doubts and brought home the guilt of the accused and thereby prays to convict the accused.

10. Percontra, **Sri P.S.**, learned counsel for the accused has argued with all vehemence that the case of the prosecution is not believable as there is lot of inconsistency in the case of the prosecution and there is no corroboration in the evidence of witnesses. It is also argued that the local persons are not called as panch witnesses. As such, viewed from any angle the prosecution is utterly failed to prove its case and thereby serious doubts are arise in the prosecution case. Accordingly prays to acquit the accused by extending the benefit of doubt.

11. Before proceeding to appreciate the case of the prosecution it is worthy to mention the cardinal principles of criminal justice system. As has been held by the Hon'ble Apex Court in case of **Kaliram v. State of Himachalpradesh**; reported in **1973 AIR 2773**, **firstly**, an accused shall be presumed to be innocent unless guilty is proved beyond reasonable doubt. **Secondly**, if any doubt is arises in the case of the prosecution then the benefit of doubt shall be extended to the accused and **thirdly**, if two views are possible on the evidence adduced by the prosecution, one pointing to the guilt of the accused

and the other to his innocence, the view which is favourable to accused shall be adopted. In another land mark judgment the Hon'ble Apex Court has enunciated fourth principle which is required to be appreciated while dealing with the criminal cases, in case of ***Sujit Biswas vs State of Assam reported in AIR 2013 SC 3817*** that ***“In a criminal trial, suspicion no matter how strong, cannot and must not be permitted to take place of proof. The court has a duty to ensure that mere conjectures or suspicion do not take the place of legal proof.”***

12. By keeping in mind the rival arguments and the aforesaid cardinal principles of criminal justice system let me proceed to examine the case of the prosecution in the light of the defence set up by the accused.

13. To bring home the guilt of the accused prosecution has relied upon the oral evidence of Pw.1 to 7 coupled with documentary evidence marked at Ex.P1 to 19 and material object at Mos.1.

14. Pw.2 Manjunath S, Pw.3 Sridhar who are the independent panch witnesses for the alleged raid and recovery of ganja substance have turned hostile to the prosecution case. Except identifying their signatures on the raid/seizure mahazar at Ex.P5 and notice at Ex.P4, they have not at all deposed anything worthy in support of the

prosecution case. They have deposed that they are not aware of the contents of mahazar and nothing was recovered in their presence. Nodoubt, they have been treated as hostile and they were subjected for cross-examination by the learned Public Prosecutor, but they have denied to admit the suggestions put by the learned Public Prosecutor and as such they are not even admitted their statement recorded by the I.O. as per Ex.P8 and P9 respectively. As such their entire evidence would not comes to the aid of the prosecution in proving the guilt of the accused. Because their evidence shows that they have not deposed anything about act said and done at the time of raid.

15. Pw.5 Sathyanarayanappa who is the father of accused and owner of the land bearing Sy.No.160/4 of Kandavara village, in which the accused alleged to have been cultivated the ganja plants has also turned hostile to the prosecution case. In his examination-in-chief he has deposed that he let the said land on lease and released it about 2 years back and he is cultivating ragi and jawar in the said land. Further stated that he has not given any statement to the police. Nodoubt, he has been treated as hostile and he was subjected for cross-examination by the learned Public Prosecutor, but he has denied to admit the suggestions put by the learned Public Prosecutor and as such he is not even admitted his statement recorded by the I.O. as per

Ex.P11. As such his entire evidence would not comes to the aid of the prosecution in proving the ownership of the land and the guilt of the accused.

16. In view of the same in the absence of corroborative evidence of independent witnesses, this court has no other option except to consider the evidence of official witnesses i.e., Pw.1, 4, 6 and 7. The evidence of Pw.1 P.S.I. Sharathkumar shows that on 20.09.2022 at about 11.30 p.m. he has received credible information about growing of ganja by the accused in land bearing Sy.No.160 of Kandavara village. On receiving the said information he has recorded the same as per Ex.P1. Further obtained permission from his higher officer by submitting a requisition. In view of the above said evidence it appears that he has complied the provisions of Section 42(1) of NDPS Act. Further he has deposed about the raid conducted and tracing of ganja plants in the said land. He has also deposed about the Ex.P2 and P3 requisitions given to Tahasildar, Chikkabllapura to act as gazetted officer, requisition given to Commissioner, CMC, Chikkaballapura to send two staff members to act as panchas and notice issued to panchas as per Ex.P4.

17. Pw.1 has further deposed about deputing Cw.7 and 8 to trace the accused, they have traced the accused and produced before him

and on enquiry accused has stated that he has no license to grow ganja plants and also stated that with an intention to sell the same he has grown the ganja plants. He has submitted his no objections to seize the said plants. Further stated about the seizure of 5 ganja plants weighing about 10 kgs 136 grams by conducting Ex.P5 raid/seizure mahazar. He has identified the photographs taken at the time of mahazar as per Ex.P6 and the report submitted by him to Pw.6 as per Ex.P7. In his cross-examination Pw.1 it has been elicited that before conducting the raid he has not been clarified about Sy.No.160 to come to the conclusion that the alleged ganja plants were grown in the said land only. Further admitted that in Ex.P5 mahazar there is a recital that the owner of the said land was leased the land for his financial necessity. Further admitted that the photos in respect of weighing of ganja plants were not produced. He has also admitted that he has not perused the R.T.C. extract pertaining to Sy.No.160/4.

18. Pw.4 Tahasildar Ganapathisastry has deposed that he has acted as gazetted officer for personal search of accused on the requisition received by the Pw.1 as per Ex.P2. Further stated that on 20.09.2022 he went to the place of incident at about 12.15 p.m. When he reached the said place he found the accused in a shed

situated in a garden land and questioning him regarding inspection of the land. But this evidence of Pw.4 is goes against to the case of the prosecution and evidence of other witnesses. Because their evidence coupled with recitals of raid mahazar Ex.P5 shows that Pw.1 has deputed the staff to trace the accused and thereafter they have traced the accused near his house and then brought him before Pw.1. Infact during his cross-examination he has admitted the suggestion of learned defence counsel that there is a reference in the mahazar at Ex.P5 to the effect of deputing police to trace the accused and they have traced and produced before Pw.1 and he has also given statement to that effect.

19. Pw.4 further deposed about uprooting of 5 ganja plants which were weighed about 10 kgs 130 grams, valued about Rs.3,00,000/- and seizure of the said plants in presence of panchas. Further he has deposed about the issuance of documents pertaining to the said land on the requisition made by the concerned police as per Ex.P10. During his cross-examination Pw.4 has clearly admitted that the said land was standing in the name of father of the accused, land bearing Sy.No.160 is divided into 15 hissas. Further on confrontation he has identified and admitted 5 R.T.C. extracts which are marked as per Ex.D1. As per the said R.T.Cs extracts Sy.No.160

is divided into five hissass and standing in the name of several persons, out of the said hissass, hissa No.4 standing in the name of father of the accused. Wherein it appears that in the said land jawar is grown. Further he has admitted that in his statement he has not stated before the police that seized ganja has comprised stem, root, leaves, flowering and fruiting tops and even in the panchanama also nothing is mentioned on this respect. All these shows that evidence of Pw.4 is not worthy to place reliance.

20. Pw.7 P.I. B.P.Manju deposed about registration of the case in crime No.68/2022 on respect of report at Ex.P7 from Pw.1 and sending FIR as per Ex.P13 to court and his higher officer. Further he has stated about arrest of accused and subjecting the material object to P.F.No.63/2022 and also about reporting the raid to Superintendent of Police, Chikkaballapura through his report as per Ex.P14. He has also deposed about the correctness certificate obtained as per Ex.P15 and the photographs taken at the time of said correctness certificate as per Ex.P16 and sending of sample ganja for FSL examination as per Ex.P18 and receipt of acknowledgment as per Ex.P17. Further deposed about requisition given to Tahasildar as per Ex.P10 for issuance of revenue documents pertaining to the alleged land where ganja was grown, examination of Pw.5 who is the owner of the said

land, recording of statements of witnesses and submission of charge sheet.

21. Initially during his cross-examination Pw.7 has admitted that the certificate as per Section 65(b) of Evidence Act is not produced in respect of the photographs taken at the time of raid and correctness certificate to show that who had taken the said photographs and from which instruments the said photographs were taken. Anyhow during the course of his further examination-in-chief he has stated that certificate under Section 65(B) of Evidence Act is received from ASI Narayanareddy and produced before the court as per Ex.P19. In his further cross-examination he has admitted that in the said document the IMEI and model numbers of the mobile in which the said photographs were taken are not mentioned. Consequently, prosecution cannot avail the benefit of certificate and thereby entire electronic evidence is required to be discarded. Because electronic evidence being a secondary evidence, which is inadmissible in the absence of valid certificate as required under Section 65(B) of Evidence Act. It is needless to mention that production of valid certificate is sine quo non for admission of electronic evidence on record.

22. Further he has admitted that in the photos obtained at the time of raid as per Ex.P6 nothing is forthcoming regarding uprooting of ganja plants and weighing the same in the presence of panchas. Therefore, it is argued that the photos at Ex.P6 are not pertains to the case on hand. Further evidence of Pw.1, 7 and recitals of raid mahazar would shows that the land in question in which the alleged ganja was grown was obtained on lease by one Srinivas for the purpose of cultivation. But the said Srinivasa has not been examined by the IO. Nodoubt, IO has offered an explanation that the said land was not put on lease to said Srinivasa as per the statement of father of accused. But in the absence of cogent and satisfactory evidence regarding actual cultivation of land by the accused, it creates doubt in the mind of the court.

23. Upon marshaling of oral and documentary evidence, discrepancies made out above would undoubtedly demonstrates that the prosecution has failed to prove the ownership of the alleged place of incident by cogent and convincing oral and documentary evidence. Further the prosecution has also failed to prove that the accused himself has grown the ganja plants in the alleged land. Under these factual scenario evidence of Pw.6 FSL officer to the effect that the alleged contraband seized is ganja substance as per report at Ex.P12

and correctness certificate issued by the Magistrate along with photographs obtained during such certification at Ex.P16 would not come to the aid of prosecution. Because unless the prosecution has discharged its initial burden, this court is not bound to draw the presumption against the accused either regarding to consider the correctness certificate as primary evidence or regarding possession of contraband by the accused. In the result, neither the evidence of panchas nor the evidence of other prosecution witnesses including the Inventory and correctness certificates would come to the aid of prosecution in proving its case. As noted supra, since the prosecution has failed to discharge its initial burden, absolutely there is no question of drawing presumption as available under the provisions of NDPS Act against the accused. Consequently, it can be held that prosecution has miserably failed to prove its case and thereby accused is found not guilty. ***Accordingly, I answer point No.1 in the negative.***

24. **Point No.2:** In view of my findings on point No. 1, I proceed to pass the following;

ORDER

Acting under Section 235 (1) of Cr.P.C.
the accused is acquitted for the offence punishable
under Section 20(a) of NDPS Act.

Bail bond and surety bond executed by
the accused stands cancelled and he is set at liberty.

The bail bond and surety bond executed
by the accused under Section 437-A of Cr.P.C. will
remain in force for the period as mentioned in the
said Section.

M.O.1 one ganja packet shall be
returned to the competent authority/Drugs disposal
committee for disposal in accordance with law after
appeal period is over with a direction to submit a
compliance report about handing over the same to
the disposal committee along with documents for
having received the same.

*(Dictated to the STENOGRAPHER GRADE-I directly on computer, revised and corrected by
me, signed and then pronounced in the Open Court on this the 1st day of August 2026.)*

(T.P.RAMALINGE GOWDA)
Prl. District and Sessions Judge,
Chikkaballapura.

APPENDIX**Witnesses examined for Prosecution:-**

PW.1 : Sharath Kumar
PW.2 : Manjunath.S
PW.3 : Sridhar
PW.4 : Ganapathi Shastri

PW.5 : Sathyanarayanappa
 PW.6 : K.Manjunath
 PW.7 : B.P.Manju

Witnesses examined on behalf of defence: -

- N I L -

List of documents exhibited on behalf of Prosecution:-

Ex.P1	:	Requisition letter of PW-1 to conduct raid
Ex.P1(a)	:	Signature of PW-1 on Ex.P1
Ex.P2	:	Requisition letter of PW-1 to Tahasildar
Ex.P2(a)	:	Signature of PW-1 on Ex.P2
Ex.P3	:	Requisition letter of PW-1 to Commissioner, City Municipality, Chikaballapura
Ex.P3(a)	:	Signature of PW-1 on Ex.P3
Ex.P4	:	Record of reason under Section 41 of NDPS Act
Ex.P4(a)	:	Signature of PW-1 on Ex.P4
Ex.P4(b)	:	Signature of PW-2 on Ex.P4
Ex.P4(c)	:	Signature of PW-3 on Ex.P4
Ex.P5	:	Seizer mahazar
Ex.P5(a)	:	Signature of PW-1 on Ex.P5
Ex.P5(b)	:	Signature of accused on Ex.P5
Ex.P5(c)	:	Signature of PW-2 on Ex.P5
Ex.P5(d)	:	Signature of PW-3 on Ex.P5
Ex.P5(e)	:	Signature of PW-4 on Ex.P5
Ex.P6	:	Photographs
Ex.P7	:	Report
Ex.P7(a)	:	Signature of PW-1 on Ex.P7
Ex.P7(b)	:	Signature of PW-7 on Ex.P7
Ex.P8	:	Statement of PW-2
Ex.P9	:	Statement of PW-3
Ex.P10	:	Requisition of IO issued to Tahasildar along with report submitted by PW-4
Ex.P10(a)	:	Signature of PW-4 on Ex.P10
Ex.P10(b)	:	Signature of PW-7 on Ex.P10
Ex.P11	:	Statement of PW-5
Ex.P12	:	FSL report
Ex.P12(a)	:	Signature of PW-6 on Ex.P12
Ex.P13	:	First Information Report
Ex.P13(a)	:	Signature of PW-7 on Ex.P13
Ex.P14	:	Report submitted by PW-7 to SP
Ex.P14(a)	:	Signature of PW-7 on Ex.P14

Ex.P15 : Requisition letter of PW-7 to conduct inventory
Ex.P16 : Inventory along with correctness certificate
and photographs
Ex.P17 : Passport along with acknowledgment
Ex.P18 : Requisition letter of PW-7 to accord
permission to handover seized ganja to DAR
Ex.P18(a) : Signature of PW-7 on Ex.P18
Ex.P19 : Certification under Section 65 B of
Indian Evidence Act

List of documents exhibited on behalf of defence:-

Ex.D1 : RTC extracts
Ex.D2 : Marked portion of voluntary statement of
accused

Material objects makred for Prosecution:-

M.O.1 : One Ganja packet

(T.P.RAMALINGE GOWDA)
Prl. District and Sessions Judge,
Chikkaballapura.