



`KAKB220036072025



**IN THE COURT OF THE ADDL.CIVIL JUDGE & JMFC
AT ALAND**

PRESENT

SMT.SUMAN CHITARGI.,B.COM.,LL.M.
C/C.ADDL. CIVIL JUDGE & JMFC
ALAND

DATED THIS THE 28TH DAY OF APRIL - 2026

CRIMINAL CASE No.2271/2025

COMPLAINANT:

The State of Karnataka represented by
Madan Hipparga P.S.

(By A.P.P.)

V/s

ACCUSED:

Ambaji S/o Narasing Chougale,
Aged: 65 years, Occ: Coolie Work,
R/o Darga Shiroor, Tq: Aland,
Dist: Kalaburagi.

(By Sri.S.B.P., Advocate)

Date of offence	15.03.2025
Date of report	15.03.2025
Date of arrest of accused	-----
Whether in custody	No
Complainant	State through Smt. Savita PSI



	of Madan Hipparga PS.
Offences alleged	U/Secs.32 and 34 of Karnataka Excise Act
Evidence commenced on	04.12.2025
Evidence closed on	24.02.2026
Judgment pronounced on	28.04.2026
Opinion of Presiding Officer	Accused found not to be guilty
State by	Learned A.P.P.
Accused by	by Sri.SBP., Advocate

**C/C. ADDL.CIVIL JUDGE & JMFC
ALAND**

<><><>

J U D G M E N T

The SHO of Madan Hipparga PS has filed charge sheet against the accused for the offenses punishable U/Secs.32 and 34 of Karnataka Excise Act.

2. Brief facts of the prosecution case are as under:-

It is the case of the prosecution that on 15.03.2025 at about 20-30 hours in Chougali Kirana Shop situated at Darga Shiroor village comes within the jurisdiction of Madan Hipparga Police Station, the accused found in illegal possession of liquor pouches stored in a white plastic bag in all 1). 50 pouches of Original Choice Whiskey measuring 90 ml, 2).12-Bagpiper whiskey pouches



measuring 90 ml and found selling the same to the customers without having any valid permit or license from the competent authority so as to possess the same with an intention to sell the same to have wrongful gain and to cause wrongful loss to the exchequer and also found sale proceeds of Rs.120/- in his possession, in order to cause wrongful loss to the exchequer of the State and also found in illegal possession of said intoxicants knowingly well that the same is not fit for human consumption and may it cause health hazard found selling to the public. Therefore the complainant with her raiding team have raided and caught-hold the accused and seized the said intoxicants from his possession by preparing seizure mahazar and filed complaint on behalf of the State. On the strength of it, the Station House Officer of Madan Hipparga P.S. has registered the case in their P.S. Crime No.23/2025 for the offences under Section 32 and 34 of Karnataka Excise Act and took up investigation and after completing investigation, filed charge sheet against the accused for the above offenses.

3. Based on the final report cognizance for the said offences was taken against accused and summons was issued to the accused, he has put his appearance through the counsel and got enlarged on



bail.

4. Prosecution papers were furnished to the accused in compliance of Section 230 of BNSS.

5. Heard. Learned APP and learned counsel for accused. As there were sufficient materials to frame charge, charge U/Secs.32 and 34 of Karnataka Excise Act, 1965 were framed against the accused and same has been read over and explained to him, he has not pleaded guilty and claims to be tried hence, case was posted for prosecution evidence.

6. In order to establish the guilt of accused, the prosecution in all has examined 05-witnesses at P.W.1 to P.W.5 and got marked 08-documents at Ex.P.1 to Ex.P.8 with sub-markings and also got marked liquor pouches and cash as M.O.1 to 3. Learned APP has given up C.W.5 to 8 and closed its side.

7. After closure of evidence of prosecution witnesses, the accused statement U/Sec.351 of Cr.P.C. was recorded and incriminating material appearing in the prosecution evidence was brought to the notice of accused and he has denied the same and has not chosen to lead defense evidence.

8. Heard learned APP for State and learned counsel for accused.



9. Upon hearing the arguments and on perusal of materials placed on record, following points arise for my consideration.

1. Whether the prosecution proves beyond all reasonable doubts that on 15.03.2025 at about 20-30 hours in Chougali Kirana Shop situated at Darga Shiroor village comes within the jurisdiction of Madan Hipparga Police Station, accused found in illegal possession of liquor pouches in white plastic bag in all 50 pouches of Original Choice measuring 90 ml and 12-bag piper whiskey pouches measuring 90 ml and sale proceed of Rs.120/-and found selling the same to the customers without having any valid permit or license from the competent authority so as to possess the same and thereby accused has committed an offences punishable U/Sec.32 of Karnataka Excise Act, 1965?

2. Whether the prosecution proves beyond all reasonable doubts that on the above said date, time and place, accused found in possession of intoxicants as stated above without lawful authority knowing the same to have been unlawfully collected or knowing the prescribed duty not to have



been paid thereon and thereby accused has committed an offence punishable U/Sec.34 of Karnataka Excise Act, 1965?

3. What order?

10. My findings to the above points are as under:

POINT NO.1 : In Negative.

POINT NO.2 : In Negative.

POINT NO.3 : As per final order for the following:

REASONS

11. **POINTS NO.1 AND 2:-** These points are inter related to each other and having common appreciation of facts and evidence. Hence, in order to avoid repetition of facts, I have taken these points together for common discussion.

To substantiate the guilt of the accused, prosecution got examined the witnesses as P.W.1 to 5 and got exhibited Ex.P.1 to Ex.P.8 documents and also got marked sample pouches and cash as MO1 to 3.

12. Ex.P1 is the Seizure panchanama, Ex.P2 is the Photograph Ex.P3 is the Japti Panchanama(Certificate U/Sec.64(4) of BSA, 2023), Ex.P4 is the Memo/complaint, Ex.P5 is the FIR, Ex.P6 is the Report submitted by the CHC 394, Ex.P7 is the Forwarding Letter and Ex.P8 is the FSL Report.



13. In order to bring home of the guilt of the accused, prosecution examined the attesting witness to the seized panchanama i.e. CW2-Shrishail S/o Ramalinga as PW1 and CW3-Dhareppa S/o Sharanappa as PW2. Both these witnesses have deposed in their chief examination that they do not have any information about the case. On the say of police they have signed on the document marked as Ex.P1 and have also identified the photograph as Ex.P2. At this stage, learned APP treated them as hostile witness and cross-examined them. In the cross-examination that they have denied on 15.03.2025 between 8:30 and 9:30. the I.O has drawn panchanama in their presence. Hence the prosecution fails to prove seizure of material objects and conducting of panchanama in the presence of these witnesses.

14. CW4-Basavaraj(Police Constable) got examined as PW3. He is the one of the raiding team member. He has deposed that on 15.03.2025 at about 7:00 p.m. when he was in the police station CW1 has received credible information with regard to selling of liquor by the accused at Darga Shiroor village and said fact was informed to him and CW5 and 6 and intimated them for conducting raid. At 7:30 p.m. they left towards Darga Shiroor and stopped the vehicle at the outskirts of the village, secured presence of CW2 and 3



who have consented to stand as panchas. Hence all of them raided on Chougale Kirana Shop by confirming selling of liquor. Hence, raided at 8:30 p.m. and found having possession of plastic hand bag by the accused wherein found liquor pouches. Meanwhile the customers of fled away. They have caught hold the accused and on inquiry disclosed his name as Ambaji Narasing Chougale. On further inquiry failed to produce any license permitting him to sell the liquor. They have verified the box found 90 ml Original Choice Whiskey 50 pouches worth Rs.2000/-, 90 ml bagpiper 12 pouches worth Rs.950/-. On further search found sell proceeds of 120/-. Later they have seized all the liquor pouches in white cloth and put 'M' Seal and affixed chit bearing signatures of the panchas and between 8:30 and 9:30 am conducted panchanama and took photograph through Handy cam and returned to the police station filed report before the SHO for further action. He has identified the certificate issued by him U/Sec.63(4) of BSA marked as Ex.P3. He identified 50-90 ml OC Whiskey pouches as MO.1, 12-90 ml Bagpiper whiskey as MO2 and Cash of Rs.120/- as MO3.

15. The learned defence counsel has fully cross-examined this witness. It is elicited that he does not know about preparation of search warrant by the CW1. At the time of raid 3-4 customers are



present. But he cannot say their names and also not tried to trace them. It is further elicited that they have not seized plastic carry bag. He further admitted that MO1 and 2 are easily available at anywhere. It is further elicited that the denomination seized notes has not been disclosed in his evidence. It is further elicited that they have not submitted cardboard box in which liquors were preserved has not been sent to the FSL. The rest of suggestions have been denied as false.

16. CW1-Smt. Savita(PSI/Leader of raiding team) got examined as PW4. She has deposed in her evidence that on 15.03.2025 at 7:00 p.m. received credible information about sale of liquor at Shiroor village in Chougale Kirana Shop. She secured presence of CW2 and 3 through CW4 on consent given by them all of them had been to the place of information in Government vehicle No.KA32/G-1028. They kept watch and after confirmation about indulging in sale of liquor, conducted raid at 8:30 p.m., enquired and he disclosed his name as Ambaji S/o Narasing Chougale who is present before the court. On further inquiry failed to proceed any license or permit. Hence, she seized 50 pouches of 90ML OC Whiskey and 12 pouches of 90 ml Bagpiper Whiskey. On search of person found sale proceed of Rs.120/-. She has seized the all the material objects



by conducting panchanama between 8:30 and 9:30 p.m. Later on she has produced material objects, accused, seizure panchanama with her report before the CW9 to take further action. She has identified the complaint marked as Ex.P4. She too identified her presence in Ex.P2 so also MO1 to 3.

17. The learned defence counsel has cross-examined this witness. It is elicited that she secured the presence panchas in the police station. It is further elicited that 2-3 customers fled-away at the time of conducting raid with an intention to caught hold the accused, she has not tried to chase them. She found seized liquor pouches stored in a different boxes which were not seized by them. She has denied rest of suggestions as false.

18. CW9-Laxmiputra(HC/IO) got examined as PW5. He has deposed that on 15.03.2025 when he was on the charge of SHO at about 10:00 p.m. CW1 visited the police station submitted one report and produced material object, seizure panchanama and accused. Hence, registered the case in crime No.23/2025 and submitted FIR to the court through official. On the same day, he recorded confessional statement of accused and issued notice U/S.35. On the same day, collected report U/S.63(B) from CW4, recorded the statements of CW5 and 6 on the same day. On



28.03.2025 he submitted material object to the FSL and collected report in this regard. On 07.05.2025 collected FSL report and on conclusion of investigation submitted charge sheet. He identified FIR as per Ex.P5, the Report dated: 28.03.2025 as Ex.P6, the forwarding FSL letter as Ex.P7 and FSL Report as per Ex.P8.

19. The learned defence counsel cross-examined this witness. Cross-examination of this witness by the defence counsel is nothing but mere denial.

20. In order to prove the offences as alleged against the accused, it is the prime duty of the prosecution to prove the seizure of liquor pouches from the possession accused by adducing the cogent and corroborative evidence attesting witnesses to the seizure mahazar. To prove the facts the evidence of the panchas witnesses are very crucial. In the present case, on hand the independent mahazar witnesses PW1 and 2 who have completely turned hostile and though the learned APP has cross-examined them but failed to elicit anything from their mouth so as to prove seizure of M.O.1 to 3 from the possession of accused in the presence of these witnesses by conducting seizure panchanama Ex.P.1 and also with regard to taking photographs of the spot. Hence, prosecution has failed to prove conducting of seizure panchanama and also seizure of the



non duty paid liquors from the possession of accused beyond all reasonable doubt.

21. In the instant case, as per the admission elicited by the defense counsel from the mouth of official witnesses that prior to conducting raid, complainant has not prepared search warrant which is mandatory as per the provisions of Karnataka Excise Act. Hence, the present case is suffering from lacuna of procedural aspect. Further the complainant has not made any effort to chase or caught hold intending purchasers who said to be flee away at the time of conducting raid and also not made any effort to collect the information about place of purchase of the seized liquor from the possession of the accused. Though the complainant has tried to patch-up the lacuna found place in her evidence with regard to non collecting information about the persons who flee away from the spot is not satisfied.

22. On perusal of the material available on record and as per the argument canvased by the defense counsel goes to show that the I.O has not opted to record the statements of any independent witnesses nor cited them as charge sheet witnesses. It is the fact the place of occurrence is a Kirana Shop and presence of customers to the said shop is common and the IO has not opted to record the



statements of owner of the shop or statements of any neighboring shop/house owners. If the independent witnesses are examined and their statements are recorded it will come to the aid of the prosecution in proving conducting of raid, but the I.O has not did the same for the reasons best known to her. In the instant case as per the version of the complainant/PW.4, the accused found possession of the seized liquor pouches in a different cardboard boxes, but the same has not been seized along with the liquor under the seizure panchanama Ex.P.1. Hence, on considering overall circumstances of the case this court is of the considered view that there is no direct nexus with accused and M.O.1 to 3. There are so many contradictions and omissions found place in the evidence of prosecution witnesses and there is no any cogent, corroborative and clinching evidence available on record to connect the accused with alleged crime, hence the prosecution has not proved the case beyond all reasonable doubts and when the prosecution has not proved the case beyond all reasonable doubts, it creates doubt in the mind of this Court. Hence, the accused is entitled for benefit of doubts and he is entitled for acquittal, **hence,**

I answer points No.1 and 2 in the Negative.



23. **POINT NO.3:-** For discussion on points No.1 and 2 following order is passed.

ORDER

Acting U/s.271(1) of BNSS accused is hereby acquitted for the offences punishable U/s.32 and 34 of Karnataka Excise Act, 1965.

Bail bond and surety bond shall be continued for the period of 6 months as per Sec.281 of BNSS.

The MO.3 cash of Rs.120/- is ordered to be confiscated to the State.

Seized MO-1 and 2 liquor pouches are being worthless, ordered to be destroyed after expiry of appeal period.

(Dictated to the Stenographer on Computer directly, typed by him, Judgment corrected and signed by me, then pronounced by me in the Open Court on this the 28th day of April – 2026).

(SUMAN CHITARGI)
C/C. ADDL.CIVIL JUDGE & JMFC
ALAND

<><><>



ANNEXURES

Witnesses examined for the prosecution:

- PW1 : Shrishail S/o Ramaling.
PW2 : Dhareppa S/o Sharanappa.
PW3 : Basavaraj S/o Chandrakant.
PW4 : Savita W/o Mallikarjun.
PW5 : Laxmiputra S/o Choudappa.

Ex.documents marked for the prosecution:

- Ex.P1 : Seizure panchanama.
Ex.P1(a)&(b): Signatures.
Ex.P2 : Photograph.
Ex.P3 : Japti Panchanama(Certificate U/S.63(4) of BSA-2023).
Ex.P3(a)&(b): Signatures.
Ex.P4 : Memorandum.
Ex.P4(a)&(b): Signatures.
Ex.P5 : FIR.
Ex.P6 : Report.
Ex.P6(a) : Signature.
Ex.P7 : Forwarding Letter.
Ex.P7(a) : Signature.
Ex.P8 : FSL Report.

List of the MOs marked on behalf of the prosecution:

- MO.1 & 2 : liquor pouches.
MO3 : Cash of Rs.120/-.



Witness/Ex.Documents marked for the accused:

-Nil-

Date : 28.04.2026

(SUMAN CHITARGI)
C/C. ADDL. CIVIL JUDGE & JMFC
ALAND

Dictated on : 28.04.2026
Checked on : 28.04.2026
Signed on : 28.04.2026

(SUMAN CHITARGI)
C/C. ADDL.CIVIL JUDGE & JMFC
ALAND

Visit ecourts.gov.in for updates or download mobile app “eCourts Services” from Android or iOS