

**IN THE COURT OF THE III-ADDITIONAL DISTRICT &
SESSIONS JUDGE AT KOLAR
(SITTING AT K.G.F.)**

:: PRESENT ::

SHRI. SHIVAKUMARA. B.
B.A., LL.B.,
III-Additional District & Sessions Judge,
Kolar, (Sitting at K.G.F.)

Dated this 12th day of June-2026

SPECIAL CASE (NDPS) No.49/2024

COMPLAINANT:

State by:

Robertsonpet Police Station.

(Rep: by Learned **P.P.**)

- V/s -

ACCUSED:

1. **Akram Kureshi @ Akram,**
S/o. Aslam Kureshi,
Aged about 31 years,
R/at. Behind Doddy, Bowrilalpet,
Robertsonpet, KGF.
2. **Syed Ummar Ahamad @ Ummar,**
S/o. Syed Muneer Ahamad,
Aged about 23 years,
R/at. Bazar Street, Oorgaumpet,
Robertsonpet, KGF.
3. **Naresh Babu @ Naresh,**
S/o. Late. Nagaraj,
Aged about 35 years,
R/at. No.1648, 5th Cross,
Geetha Road, Robertsonpet, KGF.

(Rep: by **Sri. K.V.S. Adv.**)

Date of Commission of offences	03.09.2024
Date of Report of offence	03.09.2024
Name of the complainant	Mala. G.
Offences charged against the accused persons	Sections.20(b)(ii)(B) of N.D.P.S. Act-1985
Date of commencement of trial	09.07.2025
Date of closures of trial	13.02.2026
Opinion of court	Acquittal

JUDGMENT

The accused No.1 to 3 have been charge sheeted by the Police Sub-Inspector, Robertsonpet Police Station, for the offence punishable under Section.20(b)(ii)(B) of N.D.P.S. Act-1985.

2. The brief facts of the case of prosecution are that:

On 03.09.2024 at about 10.00 a.m., upon credible information, the complainant/CW.1 along with her staff had raided on the accused No.1 to 3 near a vacant ground situated on the road leading towards Oorgaumpet from Bowrilalpet, KGF; at that time, these accused No.1 to 3 were found in illegal possession of Ganja in an autorickshaw

bearing Reg. No.KA-03 AG-9213 in a black colored plastic cover containing 1 kg 575 grams, worth of Rs.85,000/-. Therefore, the accused No.1 to 3 without having any valid licence or permit, they were in illegal possession of the said Ganja for the purpose of selling the same to the Ganja customers and also to the public. Accordingly, the complainant had lodged the complaint against the accused persons, on which basis, criminal case was registered in Crime No.98/2024 of Robertsonpet Police Station and also filed charge sheet for the offence punishable under Section.20(b)(ii)(B) of N.D.P.S. Act-1985.

3. After hearing on both sides, the charge was framed against accused No.1 to 3 for the offence punishable under Section.20(b)(ii)(B) of N.D.P.S. Act-1985, read over and explained to them, for which they pleaded not guilty and claimed to be tried.

4. Prosecution, in order to prove its case, got examined number of 4 witnesses as PW.1 to PW.4 and got marked Ex.P-1 to P-23 and M.O.1 and 2. Statement of the accused No.1 to 3 recorded under Section.313 of Cr.P.C. (Section.351 of BNSS-2023), by explaining incriminating circumstances appeared against them in the prosecution evidence. Though, the accused No.1 to 3 denied the

prosecution evidence, not chosen to adduce any defence evidence or witnesses on their behalf either oral or documentary.

5. Heard arguments on both sides.
6. The points that arise for consideration are as follows:

POINTS

1. Whether the prosecution proves beyond all reasonable doubt that on 03.09.2024 at about 10.00 a.m., when the complainant/CW.1 along with her staff had raided, the accused No.1 to 3 were found in illegal possession of Ganja in an autorickshaw bearing Reg. No.KA-03 AG-9213 in a black colored plastic cover containing 1 kg 575 grams worth of Rs.85,000/- without having any valid licence or permit for the purpose of selling the same to the Ganja customers and also to the public and thereby have committed an offence punishable under Section.20(b)(ii)(B) of N.D.P.S. Act-1985?
2. What order?
7. My findings on the above said points are as follows:

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

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

REASONS

8. **POINT No.1**: The prosecution in order to prove its case, got examined number of 4 witnesses as PW.1 to PW.4.

9. PW.1 Mala. G. PSI of Robertsonpet police station is the complainant in this case and her witness box goes to show that on 03.09.2024 at about 10.00 a.m., while she was in the police station, she received credible information that near Bowrilalpet ground in KGF, three unknown persons were selling Ganja by keeping the same in an autorickshaw. Then, after recording the information in writing in the station diary, informed the same to ter higher officers as per Ex.P1. After getting oral permission by the Dy.S.P., she got secured CW.9 and CW.10 panch witnesses through her staff to the police station by issuing notice to them as per Ex.P2. Then at about 10.20 a.m., she herself and her staff along with panch witnesses went to the said spot in their Department Jeep. On seeing the police jeep, the said 3 persons who were sitting in an autorickshaw tried to escape from the spot. However, she herself and her staff caught hold of all the three accused persons and enquired their names and addresses. On further enquiry, the accused persons told that they were selling the Ganja by purchasing

the same from Bengaluru. Then, she got issued notice to the accused persons as per Ex.P3 for their personal search (ಅಂಗ ಶೋಧನೆ) and accordingly, the accused persons gave consent as per Ex.P4. When she got opened gunny bag, she found Dry Ganja consisting of Buds, Flowers, Leavers and Seeds totally weighing 1 kg 575 grams. On further enquiry with the accused persons, they told that they did not possess or have any licence or permit to sell the said Ganja. Then, she had seized the said Ganja in the presence of panch witnesses and drawn seizer mahazar as per Ex.P5 and sealed the same in a white cloth bag. Then, she handed over the said Ganja to CW.9 by obtaining acknowledgement as per Ex.P6. At that time, she also obtained photographs which are marked as Ex.P7. Then, she took the accused persons to the police station along with seized properties and lodged the complaint along with mahazar as per Ex.P8 and handed over the seized properties along with the accused persons to the custody of SHO. During the course of trial, she identified the said Ganja and also the accused No.1 to 3 in the photographs marked as Ex.P9 and P10.

10. PW.3 S.N. Narayanaswamy is ASI of Robertsonpet police station and his witness box goes to show that on 03.09.2024 at about 12.30 p.m., when he was in-charge of the police station, PSI i.e., PW.1 appeared before him in the

police station and produced three accused persons along with mahazar and also seized packet and complaint. She also handed over the Ganja weighing about 1.575 kg which was kept in sealed manner. She also handed over autorickshaw bearing Reg. No.KA-03 AG-9213 to his custody. On the basis of the complaint lodged by the PW.1 as per Ex.P8, he got registered criminal case in Crime No.98/2024 against the accused No.1 to 3 and submitted FIR before the court as per Ex.P12. Then, he had subjected the seized properties to P.F. No.89/2024 as per Ex.P13. She also handed over Ex.P5 mahazar along with Ex.P8 complaint. Then, he had arrested the accused persons and produced them before the court along with remand application. On the same day, CW.11 who took photographs of the spot, had down loaded the same to the C.D. as per Ex.P7 and produced the same before him along with Certificate as per Ex.P14. Then, he handed over further investigation to CW.19.

11. PW.4 Thyagaraju is the then PSI of Robertsonpet police station and his witness box goes to show that on 06.09.2024, he received entire case file from PW.3 along with seized properties i.e., Ganja weighing 1.575 kgs which was kept in a sealed packet. On the same day, he also recorded the statement of witnesses i.e., CW.2 to CW.11. On

19.09.2024 at about 5.30 p.m., he had produced the seized Ganja before the learned 2nd Additional Civil Judge and JMFC at KGF, for inventory. Accordingly, in the presence of the learned Magistrate, the same was inventoried and out of the said quantity of Ganja, 50 grams of Ganja was taken-out separately for the purpose of sample and packed the same with white cloth bags. During the course of trial, he identified the said sample marked as MO.1 and 2 before the court. He also identified the photographs which were taken at the time of inventory which are combinedly marked as Ex.P19 and also Certificate for having taken the photographs of the same through his mobile phone as per Ex.P20.

12. The witness box of PW.4 further goes to show that after conducting inventory, he re-packed the remaining Ganja of 1 kg 475 grams in a sealed manner and returned back to the police station and subjected two samples to the P.F. No.93/2024 as per Ex.P21. On 20.09.2024, he had sent the seized property through his staff CW.12 to the FSL by keeping M.O.2 sample and bulk Ganja in the Material Objects Room of the police station. On 18.11.2024, he got down loaded the FSL Report as per Ex.P22. After completion of investigation and since there are prima-facie evidence and materials available on record against the accused persons,

he submitted charge sheet against them. PW.2 gave statement before him as per Ex.P11, Information report to the consent Superintendent of Police is marked as Ex.P23.

13. Apart from the evidence of PW.1, PW.3 and PW.4 police official witnesses who raided on the accused persons and also registering the criminal case and investigation done by PW.4 and also submission of charge sheet as stated supra, the prosecution also got examined an independent spot cum seizer mahazar witness as PW.2.

14. On going through the evidence of PW.2 Firoz wherein he identified his signature found on Ex.P2 requisition letter and also Ex.P5 spot cum seizer mahazar and he deposed that he does not know the contents of the above said Ex.P2 requisition and also Ex.P5 spot cum seizer mahazar. In his presence, no raid was conducted and nothing was seized by the police in his presence. But, he identified himself at Ex.P7 photograph and he does not know for what purpose, the said photographs were taken by the police and even, he did not give any statement before the police about the incident. Hence, he turned hostile.

15. Eventhough, the learned Public Prosecutor has thoroughly cross-examined PW.2 at length, nothing helpful

or favourable to the prosecution has been elicited from the mouth of PW.2 to prove the contents of Ex.P2 and Ex.P5 spot cum seizer mahazar.

16. As discussed above, it is the definite case of the prosecution that on 03.09.2024 at about 10.00 a.m., upon credible information, the complainant/CW.1 along with her staff had raided on the accused No.1 to 3 near a vacant ground situated on the road leading towards Oorgaumpet from Bowrilalpet, KGF; at that time, these accused No.1 to 3 were found in illegal possession of Ganja in an autorickshaw bearing Reg. No.KA-03 AG-9213 in a black colored plastic cover containing of 1 kg 575 grams worth of Rs.85,000/- and therefore, the accused No.1 to 3 without having any valid licence or permit, they were in illegal possession of the said Ganja for the purpose of selling the same to the Ganja customers and also to the public and accordingly, and accordingly, the accused No.1 to 3 have committed the offence punishable under the above said provision of law.

17. As per the version of PW.1 PSI, she had raided on the accused persons on receiving credible information along with her staff and two panch witnesses and at that time, the accused persons were found in illegal possession of Ganja kept in an autorickshaw; according to the version of PW.1,

when the accused persons tried to escape from the spot by leaving autorickshaw, her staff had caught hold of all the accused persons and on verifying the said auto rickshaw, the accused persons were found in illegal possession of Ganja weighing about 1 kg 575 grams; then, in the presence of panch witnesses, she conducted spot cum seizer mahazar as per Ex.P5 and also took photographs of the same as per Ex.P7 and then, she returned back to the police station and produced the same before the S.H.O. along with complaint, on which basis, the criminal case was registered.

18. PW.3 is ASI of the said police station and according to the version of PW.3, while he was SHO, PW.1 appeared before him in the police station and produced all the accused persons and also seized Ganja weighing about 1 kg 575 grams and also produced the autorickshaw; on the basis of the complaint lodged by PW.1, he got registered the criminal case against the accused persons and submitted FIR before the court and then, produced the accused persons along with remand application before the court. PW.4 is another PSI of the said police station and he has clearly deposed regarding whole process of investigation and submission of charge sheet against the accused persons.

19. It is significant to note that admittedly as per the

version of the prosecution, the accused persons were found in illegal possession of the above said Ganja kept in an autorickshaw for the purpose of selling the same; but, except seizing the Ganja, the concerned PSI who got registered a criminal case, had not seized the said autorickshaw used by the accused persons for commission of offence. According to the version of PW.3, after registering the criminal case and submission of FIR, he had subjected the said Ganja to the PF; but, he has not at all seized the said autorickshaw and no seizer mahazar was drawn in respect of seizer of said autorickshaw. Therefore, there is lacuna on the part of the Investigating Officer who partly investigated the matter in registering the criminal case and submitting FIR before the court. Even, PW.4 who has thoroughly investigated the matter, has nowhere stated in his evidence regarding seizer of said autorickshaw which is most important and material piece of evidence which was involved in the said alleged incident. Therefore, seizer of said autorickshaw by conducting mahazar is not forthcoming either in the evidence of PW.3 or PW.4.

20. It is significant to note that PW.2 is an independent spot cum seizer mahazar witness, except identifying his signature found on Ex.P5 spot cum seizer mahazar, he has completely turned hostile and not supported the prosecution

case; eventhough, the learned Public Prosecutor has thoroughly cross-examined PW.2 at length, nothing favourable or helpful to the prosecution has been elicited from the mouth of PW.2 to prove the contents of Ex.P5 spot cum seizer mahazar. Hence, it is clear that the evidence of PW.1, PW.3 and PW.4 is not supported by the evidence of independent spot cum seizer mahazar witnesses in whose presence the alleged Ganja was seized to connect the accused persons for the alleged offence. Admittedly, PW.1, PW.3 and PW.4 are police official witnesses and they are naturally supported the prosecution case. But their evidence is not corroborated or supported by the evidence of any independent witness as stated supra. Under such circumstances, considering the facts of the case, material available on record and also for the aforesaid reasons, I am of the opinion that since, there is no corroborative and supportive evidence of independent witnesses to support the evidence of PW.1, PW.3 and PW.4, the prosecution has failed to prove the guilt of the accused No.1 to 3 beyond all reasonable doubt by adducing cogent and convincing evidence before the court. Hence, the accused No.1 to 3 are entitled for acquittal by extending benefit of doubt in their favour by the hands of this court. Accordingly, I answered **Point No.1** is in the **Negative**.

21. **POINT No.2**: In view of my findings on the above said Point No.1, I proceed to pass the following:

ORDER

Acting under Section.258(1) of BNSS-2023, accused No.1 to 3 are acquitted for the offence punishable under Section.20(b)(ii)(B) of N.D.P.S. Act-1985.

The accused No.1 to 3 are set at liberty forthwith in this case.

M.O.1 and M.O.2 sample Ganja are ordered to be returned to empowered Officer of the complainant police station for its disposal as per the provisions of NDPS Act, through Committee constituted thereunder after expiry of appeal period.

(Dictated to the stenographer, transcribed by him, revised, corrected and then pronounced by me in the open Court on this 12th day of June-2026)

(SHIVAKUMARA. B)
III-Addl. District & Sessions Judge,
Kolar (Sitting at K.G.F.)

ANNEXURE**Witnesses examined on behalf of the prosecution:**

PW.1: Mala. G.
PW.2: Firoz
PW.3: Narayanaswamy. S.N.
PW.4: Thyagaraju

Documents marked on behalf of the prosecution:

Ex.P1: Requisition Letter to Dy.S.P.
Ex.P2: Notice issued to panch witnesses
Ex.P3: Notice issued to accused for search
Ex.P4: Acceptance letter from the accused
Ex.P5: Mahazar
Ex.P6: Seal received letter
Ex.P7: Photographs (4)
Ex.P8: Complaint
Ex.P9&10: Photographs (2)
Ex.P11: Statement of PW.2
Ex.P12: F.I.R.
Ex.P13: P.F. No.89/2024
Ex.P14: Sec.65(B) Certificate
Ex.P15: C.D.
Ex.P16to18: Inventory documents
Ex.P19: Inventory photographs (4)
Ex.P20: Endorsement about Mobile Phone
Ex.P21: P.F. No.93/2024
Ex.P22: FSL Report
Ex.P23: Report forwarded to S.P.

Witnesses examined on behalf of the accused:

- None -

Documents exhibited on behalf of the accused:

- Nil -

Material objects exhibited on behalf of the prosecution:

MO.1 & 2: Sample Ganja packets

(SHIVAKUMARA. B)

III-Addl. District & Sessions Judge,
Kolar (Sitting at K.G.F.)