

KAMS300000882024



**IN THE COURT OF THE PRINCIPAL SENIOR CIVIL JUDGE
AND JMFC AT HUNSUR**

Present: Smt.Anitha, B.A. (Law) L.L.B.,
Prl.Senior Civil Judge & JMFC.,
Hunsur.

Dated this the 12th day of May, 2026.

CC No.35/2024

Complainant: State by Excise Inspector,
Hunsur Excise Range,
Hunsur Sub-division,
Mysuru District.

(By: APP, Hunsur)

-Vs-

Accused: Satish Aliyas Satishgowda.,
S/o Swamygowda, Aged 36 years,
R/at Mailamburu Village,
Gavadagere Hobli, Hunsur Taluk.

(By: Sri.B.R.Lokesha., Advocate)

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|-----------------------------------|------------|
| 1. Date of commission of offence: | 01.05.2023 |
| 2. Date of report of offence: | 01.05.2023 |
| 3. Arrest of accused persons: | |
| Date of arrest of accused: | ---- |
| Date of release of accused: | ---- |
| Duration in custody: | ---- |

4. Name of the complainant: Nagalingaswamy.,
5. Date of recording of evidence: 22.07.2025
6. Date of closing of evidence: 17.03.2026
7. Offences complained of: Section 11,13,14,15, 32(1), 38(A)
and 43 of Karnataka Excise Act
8. Opinion of the Judge: Accused found not guilty.

JUDGMENT

The Excise Sub-Inspector of Hunsur Excise Range has submitted the charge-sheet against the accused for the offences punishable under Section 11, 13, 14, 15, 32(1), 38(A) and 43 of Karnataka Excise Act.

2. It is the case of the prosecution that, on 01.05.2023 on the directions of Excise Deputy Commissioner, CW5 Nagalingaswamy., the then Excise Inspector of Excise Range, Hunsur along with CW3 Ragavendra.C.V. and CW4 Srinivas Murthy.S.B., were on patrolling duty at about 9.00 p.m. near Hunsur-K.R.Nagara Main Road, Hunsur Town at the end of Hunsur Town limits having *ತಾಣಾ ಸರಹದ್ದು ಮುಕ್ತಾಯ* board, at that time CW5 received credible information that, the accused is coming from Hunsur side in a Black and Blue color Hero Splendor Plus Bike bearing Reg.No.KA-45/H-8410 in illegal possession of liquor and thereafter when the said vehicle came near them CW5 stopped the said bike and they found a white color plastic bag by the side of driver seat and on enquiry the accused has not properly replied and on enquiry they found 50 tetra packets of original choice deluxe whiskey each

containing 90 ml and the accused was not holding any licence for its possession and transportation and as such CW5 secured CW1 Suresh and CW2 Mahadevegowda as mahazar witnesses and in their presence he has seized those liquor tetra packets by drawing a mahazar to that effect and collected sample for the purpose of chemical examination. Thereafter, CW5 has prepared sample seal, issued notice to accused under Section 41(A) of Cr.P.C. and released the accused in the spot. Thereafter, he has prepared self complaint, registered the case against the accused. He has sent the sample liquor tetra packets for chemical examination. Thereafter, CW8 Smt. D.Jayanthi the then Excise Sub-Inspector has taken up further investigation, received the FSL report, submitted requisition to RTO seeking B-extract of vehicle seized recorded the statement of witnesses and received the B-extract and upon completion of the investigation submitted the charge-sheet for the aforesaid offences.

3. After filing of the charge-sheet this court took cognizance for the offences punishable under Section 11, 13, 14, 15, 32(1), 38(A) and 43 of Karnataka Excise Act and issued summons to the accused. In pursuance of service of summons the accused appeared before the court and released on bail. The copy of the charge-sheet and other prosecution papers have been supplied to the accused in compliance of Section 207 of Cr.P.C. Thereafter, heard both side and upon finding

prima-facie materials framed charge for the offences punishable under Section 11, 13, 14, 15, 32(1), 38(A) and 43 of Karnataka Excise Act. He has pleaded not guilty and claimed to be tried.

4. In order to prove the guilt of the accused, the prosecution got examined totally seven witnesses out of eight witnesses cited in the charge-sheet as per PW1 to PW7 and got marked 17 documents as per Ex.P1 to Ex.P17 and the prosecution has given up CW6 and also got marked two material objects as per MO.1 and MO.2. After completion of the prosecution evidence, the accused has been examined under Section 313 of Cr.P.C and he has denied all the incriminating circumstances appeared against him in the prosecution evidence and has not opted to lead any defence evidence.

5. Thereafter, heard arguments addressed by learned APP and learned counsel for the accused and perused the case papers. After hearing the arguments and on perusal of the case papers, the points that arise for consideration are as hereunder:

POINTS

1. Whether the prosecution proves beyond all reasonable doubt that, on 01.05.2023 when CW5 Nagalingaswamy., the then Excise Inspector of Excise Range, Hunsur along with CW3 Ragavendra.C.V. and CW4 Srinivas Murthy.S.B., were on patrolling

duty at about 9.00 p.m. near Hunsur-K.R.Nagara Main Road, Hunsur Town they found the accused in illegal transportation of 50 tetra packets of original choice deluxe whiskey each containing 90 ml without holding any licence from the concerned authority and thereby the accused has committed the offences punishable under Section 11, 13, 14, 15, 32(1), 38(A) and 43 of Karnataka Excise Act?

2. What order?

6. The findings on the above points are as hereunder:

Point No.1: In the Negative

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

REASONS

7. **Point No.1:** The prosecution is required to prove the seizure mahazar which was alleged to have been drawn in the place of occurrence. In this regard the prosecution got examined CW1 Suresha and CW2 Mahadevegowda as PW1 and PW2. In the chief-examination PW1 and PW2 have only identified their signatures in the seizure mahazar, search warrant and sample seal. The said documents have been got marked as per Ex.P1 to Ex.P3 and their signatures have been got marked as per Ex.P1(a) to Ex.P3(a). They have deposed that, they signed the said documents on the request of Excise Officials. They have also not identified the accused before the court and further not identified the material objects. Both of

them have turned hostile to the prosecution case. Though learned APP cross-examined them at length with regard to the contents of Ex.P1 to Ex.P3, they have not supported the prosecution. Their statements have been got marked as per Ex.P4 and Ex.P5. Since, PW1 and PW2 turned hostile who are material witnesses to prove the seizure of material objects from the possession of the accused, there arises a doubt in the mind of the court about their presence at the time of Ex.P1 seizure mahazar.

8. The prosecution in order to prove the raid as well as seizure of material objects from the possession of the accused got examined CW3 Raghavendra.C.V., CW5 Nagalingaswamy and CW4 Srinivasamurthy S.B., as PW3, PW4 and PW7. In the chief-examination all the three witnesses have deposed that, on 01.05.2023 in connection with State Assembly Election they are on patrolling duty and at about 9.00 p.m. where they were on duty at K.R.Nagara Hunsur Main Road near the board styled as ಹುಣಸೂರು ಪಟ್ಟಣ ಪೊಲೀಸ್ ಠಾಣಾ ಸರಹದ್ದು ಮುಕ್ತಾಯ, they found one motorcycle coming from Hunsur side with a white plastic bag on the patrol bunk and they stopped the vehicle and on questioning the accused being the rider of said motorcycle not properly answered and as such they secured CW1 and CW2 to assist them as mahazar witnesses. Thereafter, they have verified the said plastic bag and found 50 tetra packets of original choice deluxe whiskey

each containing 90 ml and upon questioning the accused he has not produced any documents for possessing the same.

9. In the further chief-examination they have deposed that, they have verified the vehicle and it was Hero Honda Splendor Plus motorcycle having black and blue color bearing Reg.No.KA-45/H-8410 and they have enquired the accused about his name and address and drawn the mahazar in the presence of CW1 and CW2 and seized 30 tetra packets for the purpose of chemical examination by drawing the mahazar. They have also deposed that, they have given statement. They have identified their signatures in the mahazar. Their signatures came to be marked as per Ex.P1(c) to Ex.P1(e). Further, PW4 deposed about his self complaint, FIR, notice to accused, requisition to authorized officers and also identified the photographs and CD. His signature in search warrant and sample seal have been got marked as per Ex.P2(c) and Ex.P3(c). The notice to accused, self complaint, FIR, requisition to authorized officer have been got marked as per Ex.P7 to Ex.P10. His signatures have been got marked as per Ex.P7(a) to Ex.P10(a). The photographs and CD have been got marked as per Ex.P11 and Ex.P12. They have also identified the material objects.

10. In the cross-examination PW3 deposed that, on the said date since 9.00 p.m. they were doing patrolling and there are suggestions to denying the prosecution case which have

been denied by him. He has admitted the suggestion that, they have destroyed the white plastic bag and obtained permission from the competent authority for the same. He has admitted the suggestion that, MO.1 tetra packets are easily available in the liquor shop. In the cross-examination PW4 deposed that, on the said date they have done patrolling at Hunsur Town from 6.00 pm. To 8.00 p.m. and they reached the place of incident at about 9.20 p.m. in the Government vehicle. He has further deposed that, CW3 stopped the accused and it is not mentioned in the self complaint and the mahazar. In the further cross-examination he has denied the suggestions. PW7 in his cross-examination deposed in the same line as that of PW3 and PW4. He has denied the suggestion that, on the said date the accused was not illegally transporting the liquor tetra packets.

11. As per the prosecution CW7 Devaraju is the owner of vehicle seized by the accused. He has been examined as PW6 and in the chief-examination he has deposed that, on 01.05.2023 he has given his bike to the accused in order to go to his house and thereafter he came to know that, the Excise Officials have seized his vehicle in connection with illegal transportation of liquor and he has given statement before the Excise Officials. This witness has not been cross-examined by counsel for accused.

12. One more witness in this case is CW8 D.Jayanthi who has submitted charge-sheet. She has been examined as PW5 and it is her evidence that, she has submitted requisition to FSL, Benagluru for chemical examination and she has also submitted requisition to ARTO, Hunsur to furnish the B-extract of the vehicle and she has received it and came to know that, CW7 is its owner. On 15.07.2023 the accused appeared before her and given statement. She has recorded the statements of CW1 and CW2. On 28.07.2023 CW7 appeared before her and recorded his statement. She has received FSL report, 65(B) certificate. The requisition submitted to FSL, Mysuru came to be marked as per Ex.P13, the requisition to ARTO, Hunsur came to be marked as per Ex.P14, the B-extract came to be marked as per Ex.P15. She has also identified her signatures in Ex.P6, Ex.P11 and Ex.P12. Her signatures in requisition and B-Extract came to be marked as per Ex.P13(a) to Ex.P15(a), Ex.P6(a) , Ex.P11(a) and Ex.P12(a). The voluntary statement of the accused came to be marked as per Ex.P16, her signature in it came to be marked as per Ex.P16(a) and the signature of the accused came to be marked as per Ex.P16(b). The certificate under Section 65(B) came to be marked as per Ex.P17 and her signature came to be marked as per Ex.P17(a). This witness was also not cross-examined by the accused counsel.

13. In this case the very important document is Ex.P1 spot and seizure mahazar. As per this document the alleged seizure was done on 01.05.2023. In order to prove this document the prosecution examined independent witnesses who are PW1 and PW2. As already discussed above PW1 and PW2 have completely turned hostile to the prosecution case. Though learned APP cross-examined them at length they have not deposed a single word in support of the prosecution. They have also denied each and every contents of their statements which came to be marked as per Ex.P4 and Ex.P5. It is further important to note that, as per Ex.P1 to Ex.P3 documents the alleged raid and seizure was conducted on 01.05.2023. In the evidence PW5 deposed that, on 06.05.2023 she has sent the sample material objects to the FSL for chemical examination. It is very important to note that, there is gap of about 5 days in sending the sample to the FSL. There is no explanation from the side of the prosecution about the reasons for keeping the material objects in the possession of IO. This creates doubt in the mind of court about Ex.P1 mahazar as well as seizure of material object.

14. As per prosecution and as per the contents of documents marked on behalf of the prosecution totally 50 tetra packets of original choice deluxe whiskey have been seized and the evidence of prosecution witnesses shows that, only 30 tetra packets of original choice deluxe whiskey have

been sent to chemical examination. There is no material before the court about the liquid contained in remaining 20 tetra packets of original choice deluxe whiskey. This fact also creates doubt in the mind of the court about seizure of 50 tetra packets of original choice deluxe whiskey. Neither in the mahazar nor in the entire statements of the witnesses it is forthcoming that, what prevented PW5 from sending all the 50 tetra packets of original choice Deluxe whiskey to the FSL. It is for the prosecution to explain. But there is no material before the court to show that, what is the liquor found in remaining 20 tetra packets. Furthermore the prosecution has not produced the white color plastic bag. As per the evidence it was destroyed, but no documents have been produced to that effect. In this case the prosecution failed to prove the drawing of Ex.P1 mahazar beyond reasonable doubt. As per the principles of criminal jurisprudence the benefit of doubt shall also be given to the accused and not the prosecution. On the basis of above discussion this court comes to the conclusion that, the prosecution has failed to prove the guilt of the accused beyond all reasonable doubt. Accordingly, point No.1 is hereby answered in the Negative.

15. **Point No.2**:- In view of the reasons discussed above this court proceeds to pass the following:

ORDER

Acting under Section 248(1) of Cr.P.C the accused is hereby acquitted for the offences punishable under Section 11, 13, 14, 15, 32(1), 38(A) and 43 of Karnataka Excise Act.

The bail bond and surety bond of the accused and his surety shall stand cancelled.

The bond executed by the accused and his surety under Section 437(A) of Cr.P.C shall be in force for a period of six months.

The material objects MO.1 and MO.2 are hereby ordered to be returned to the concerned Excise Department after completion of the appeal period for disposal in accordance with law.

(Dictated to the Stenographer, transcribed and computerized by her on the computer, transcript corrected and pronounced by me in the open court on this the 12th day of May, 2026.)

Sd/-

(Anitha)

Prl.Senior Civil Judge and JMFC.,
Hunsur.

ANNEXURE**List of witnesses examined on behalf of the prosecution:**

PW1	:	Suresh
PW2	:	Mahadevagowda
PW3	:	Raghavendra.C.V.
PW4	:	Nagalingaswamy
PW5	:	D.J.Jayanthi
PW6	:	Devarajau
PW7	:	Srinivas Murthy.S.B.,

List of documents marked on behalf of the prosecution:

Ex.P1 : Seizure Mahazar
Ex.P1(a) : Signature of PW1
Ex.P1(b) : Signature of PW2
Ex.P1(c) : Signature of PW3
Ex.P1(d) : Signature of PW4
Ex.P1(e) : Signature of PW7
Ex.P2 : Search warrant
Ex.P2(a) : Signature of PW1
Ex.P2(b) : Signature of PW2
Ex.P2(c) : Signature of PW4
Ex.P3 : Copy of sample seal
Ex.P3(a) : Signature of PW1
Ex.P3(b) : Signature of PW2
Ex.P3(c) : Signature of PW4
Ex.P4 : Statement of PW1
Ex.P5 : Statements of PW2
Ex.P6 : FSL Report
Ex.P6(a) : Signature of PW5
Ex.P7 : Notice
Ex.P7(a) : Signature of PW4
Ex.P8 : Self complaint
Ex.P8(a) : Signature of PW4
Ex.P9 : FIR
Ex.P9(a) : Signature of PW4
Ex.P10 : Requisition
Ex.P10(a) : Signature of PW4
Ex.P11 : Photograph
Ex.P11(a) : Signature of PW5
Ex.P12 : CD
Ex.P12(a) : Signature of PW5
Ex.P13 &
Ex.P14 : Requisitions
Ex.P13(a) : Signatures of PW5
Ex.P14(a) : Signatures of PW5
Ex.P15 : B- Register Extract
Ex.P115(a) : Signature of PW5

Ex.P16 : Voluntary statement of accused
Ex.P16(a) : Signature of PW5
Ex.P16(b) : Signature of accused
Ex.P17 : Certificate under Section 65(B) of
Indian Evidence Act
Ex.P17(a) : Signature of PW5.

Witnesses examined on behalf of the accused persons : Nil

Documents marked on behalf of the accused persons: Nil

Material objects marked on behalf of the prosecution person:

MO.1: Tetra Packets.
MO.2: White color Bag.

Material objects marked on behalf of the accused persons: Nil

Sd/-
(Anitha)
Prl.Senior Civil Judge and JMFC.,
Hunsur.