



**IN THE COURT OF PRL.SENIOR CIVIL JUDGE &
J.M.F.C. AT BASAVANA BAGEWADI**

Dated this the 30th day of July, 2026

Complainant:- State by, Excise PSI
Range B.Bagewadi.
(By A.P.P.)

Balubai W/o.Gonu Jadhav,
Age:55 years, Occ:Household,
R/o:Mulawad Tanda,
Tq. Kolhar,
Dist: Vijayapura.

1.	Date of offence	:	30-12-2023
2.	Date of report of offence	:	30-12-2023
3.	Arrest of the accused		On 01.02.2024
			she was on
		:	anticipatory
			bail.
4.	Name of the	:	Jagadish
	complainant	:	Bajantri

5. Date of commencement of evidence : **16.05.2026**
6. Date of closing of evidence : **28.07.2026**
7. Offence complained of : **U/Sec.32 and 38(A) of K.E.Act & Sec.273 of IPC.**
8. Opinion of the Judge : **Accused not found guilty.**

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

The Excise Police Sub Inspector, B.Bagewadi Range, has filed this charge sheet against the accused for the offences punishable under section 32 and 38(A) of Karnataka Excise Act 1965.

2. The brief facts of the prosecution case are as under:

That, on 30.12.2023 at about 9:00 AM, Cw1 along with his staff after receiving credible information committed raid on the house of the accused situated at Mulawad Tanda of Kolhar taluk where they found 4 liter illicit arrack stored in white plastic bottle having 5 liter capacity. After opening the bottles, they felt irritating smell. The Pw1 after enquiry found that the accused was transporting/selling about 4 liter stored

in one plastic bottle by possessing unauthorizedly and without any license, thereby the Cw1 lodged complaint as per Ex.P1, FIR was registered as per Ex.P2 and then after recording statement of witnesses, and after completion of investigation, the Pw6 has submitted charge sheet against the accused. Thus, the accused possessing illegally and transporting the same without having license from the competent authority for the purpose of sale knowing fully well that the said liquor is noxious drink and unfit for human consumption and thereby accused has committed the offenses punishable U/Secs.32 and 38(A) of Karnataka Excise Act, 1965 and Sec 273 IPC.

3. Based on the complaint given by CW.1/Jagadish Bajantri the Excise Inspector of B.Bagewadi Range has registered the case against the accused in Crime No.26/2023-24 and subsequently on completion of the investigation of the case, Excise Sub Inspector B.Bagewadi Range/Pw6 has submitted the charge sheet against the accused before this Court.

4. This Court took cognizance of the offenses and issued summons to the accused. Pursuant to service of summons, the accused has put her appearance before this Court through her Counsel. She was on anticipatory bail.

5. Acting under section 207 of Cr.P.C., the copy of the prosecution papers were furnished to the accused. After hearing both the sides, charges were framed for the offences punishable under Sec 32, 38(A) of Karnataka Excise Act and Sec 273 of IPC, and the contents of charge were read over to the accused. The accused pleaded not guilty and claimed to be tried.

6. In order to substantiate the charges leveled against the accused, prosecution has examined in all 6 witnesses as Pws-1 to 6 out of 9 witnesses cited in the charge sheet, and got marked as many as 10 documents as per Ex.P.1 to Ex.P.10 and Mo-1 got identified.

7. After concluding prosecution evidence, the incriminating circumstances in the evidence of

prosecution witnesses were read over to the accused as per Sec. 313 of Cr.P.C., and same were denied by the accused. Accused did not lead any defence evidence.

8. Heard arguments of both the sides.

9. On the basis of material available on record, the points that arise for my consideration are as follows:

1. Whether the prosecution proved beyond all reasonable doubt that, on 30.12.2023 at about 9:00 AM the accused was transporting/selling illicit liquor of 4 liter at Mulawad Tanda No.2 in her house stored in one plastic bottle having 5 liter capacity and illegally transporting/possessing the same without having license from the competent authority thereby accused has committed the offenses punishable U/Secs.32 and 38(A) of Karnataka Excise Act, 1965?
2. Whether prosecution proved beyond all reasonable doubt that on the same date, time and place, accused with an intent to sell the noxious/poisonous toddy drink to the public knowingly that, it is injurious to health and thereby committed the offences punishable Section 273 of Indian Penal Code?
3. What order?

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

Point No.1 : In the Negative,

Point No.2 : In the Negative,

Point No.3 : As per the final order for the
following:

REASONS

11. Point No.1 & 2:- Both points are interlinked, to avoid unnecessary repetition of discussion they are taken together for common discussion.

According to the prosecution case, on 30.12.2023 at about 9:00 AM, Cw1 along with his staff after receiving credible information committed raid on the house of the accused situated at Mulawad Tanda of Kolhar taluk where they found 4 liter illicit arrack stored in white plastic bottle having 5 liter capacity. Thereafter, Pw1 after enquiry found that the accused was transporting/selling about 4 liter stored in one plastic bottle by possessing unauthorizedly and without any license, thereby the Cw1 lodged complaint as per Ex.P1 and after investigation, Pw6 has submitted charge sheet against the accused. Thus, the accused possessing illegally and transporting the same

without having license from the competent authority for the purpose of sale knowing fully well that the said liquor is noxious drink and unfit for human consumption and thereby accused has committed the offenses punishable U/Secs.32 and 38(A) of Karnataka Excise Act, 1965 and Sec 273 IPC.

12. As stated supra, in order to prove the charges leveled against the accused, prosecution in all has examined 7 witnesses as Pws-1 to 7 and got marked documents at Ex.P1 to Ex.P.10 and sample 180 ML as MO.1. The prosecution has examined the following witnesses in order to prove its case;

Pw1 /Cw1	Jagadish Bhimashen Bajantri complainant and IO
Pw2/Cw2	Shivashankar Sangappa Rayagond/spot pancha
Pw3/Cw3	Basappa Ramappa Chalawadi/ Spot pancha
Pw4/Cw4	Sulochana Yallappa Laskar/ official witness
Pw5/Cw6	Shivaji Dharmaji Joshi/Sample Carrier
Pw6/Cw7	Vijayakumar Melavanki/I.O.2
Pw7/Cw8	Vithal Peerappa Jirankalagi/IO-1

13. On behalf of the prosecution, the documents so marked as follows:

Exhibits /Sl.No.	Description of document
1.	Complaint
1a	Sign of Pw1
2.	First Information Report
2a	Sign of Pw1
3	Search warrant
3a	Sign of Pw1
4	Panchanama
4a-d	Sign of Pw1 to 4
5	Letter issued to retain the MO
5a	Sign of Pw1
6	Model seal
6a-c	Sign of Pw1 to 3
7	Letter addressed to PDO Mulawad
7a	Sign of Pw6
8	Report from PDO Mulawad
8a	Sign of Pw6
9	Letter addressed to FSL
9a	Sign of Pw6
10	FSL report
10a	Sign of Pw6

14. Learned APP argued that, the prosecution witnesses have fully supported about accused possessing illicit liquor, transporting the same illegally without having license/permit and so also the

documentary evidence regarding raid, conducting of panchanama, seizure of illicit arrack and preparing search warrant etc., and prayed to convict the accused.

15. *Per contra*, learned counsel for the accused argued that, the prosecution has utterly failed to prove the guilt of the accused as the seizure pancha and spot panchas have turned hostile to the story of prosecution, the other witnesses examined on behalf of the prosecution are official witnesses, and even they led contradictory evidence and the search warrant is not in accordance with law and therefore the benefit of doubt may kindly be extended to the accused and sought for acquittal of the accused.

16. I have cautiously perused the oral evidence, documentary evidence, and cross-examination highlighted points available on record.

PW.1 being complainant deposed in his examination-in-chief that on 30.12.2023 when he was in the excise office, he received credible information

that at Mulawad tanda an illicit has been selling by a lady in her house. He along with panchas Cws-4 & 5 went to Mulawad Tanda, conducted raid at accused house, found illicit liquor containing 4 liter in a plastic white bottle, seized the same, secured Aadhaar card zerox card, prepared search warrant, conducted panchanama, sent sample for chemical examination and thereafter lodged complaint as per Ex.P1 and registered FIR as per Ex.P2, prepared search warrant as per Ex.P3 and conducted panchanama as per Ex.P4. He got identified M.O.1. In the cross-examination states that he has not taken photographs of the scene of offence. Rest of the cross-examination is just denial.

Pw2 and 3 being spot panchas, deposed in their examination-in-chief that when they were standing nearby Aralakatti and Basaveshwar circle, the excise police took their signatures stating that they have seized the illicit liquor. But both have stated that in their presence nothing has been seized. They cannot

say what is written in the Ex.P4. Their signatures have been marked at Ex.P4(a) and Ex.P4(b).

Pw4 and 5 being police constable and Excise PSI, both have deposed in their examination-in-chief about their participation in the raid team and also deposed similar lines to that of Pw1. In their cross-examination also, stated in consonance of cross-examination of Pw1. So, there is no much discussion in this regard.

Pw6 and 7 being investigating officers, who deposed in their examination-in-chief about history of raid, recording statements of witnesses, sending the chemical examination of seized liquor, receiving the report, further recording statement of Cws-4 and 5, Pw7 handing over the further investigation of this case to Cw9 and thereafter the Cw9/Pw6 stated after completion of investigation, he submitted charge sheet against the accused. During the cross-examination of learned accused counsel, nothing worth is elicited from their mouth to disprove their version.

17. I perusal of the testimonies, oral evidence and material available on record, I am of the opinion that, though the prosecution has alleged against the accused that the accused was engaged in preparing/selling by possessing/transporting illicit liquor in Mulawad Tanda at her house, but the Pws-2 and 3 being pancha witnesses have turned hostile to the prosecution case. They never supported the prosecution case. Moreover, rest of the witnesses i.e., Pw1, 4 to 6 being accompanied in the raid team and so also official witnesses, have deposed about the history of raid, chasing the accused, seizing the illicit liquor from the house of the accused, but no credibility can be attached to their evidence since the pancha witnesses have turned hostile to the story of prosecution. Another official witness Pw7 stated about handing over the charge to Cw9 for further investigation. Though the panchanama is conducted as per Ex.P4, but the contents of the same are not proved. Therefore, I am of the opinion that,

panchanama as per Ex.P4 is not proved. Of course, there is no impediment in believing the version of police witnesses. In order to ensure transparency in raid panchanama, the prosecution has to call two independent witnesses. In that event, it is expected that, attesting witnesses to Ex.P4 must speak in consonance with the prosecution case. Under such circumstances, Ex.P4 loses its sanctity as held by Hon'ble Supreme Court in the case of **Varun Choudhary Vs.State of Rajasthan reported in AIR 2011 S.C.73.**

18. It is specific case of prosecution that, on the above mentioned date, time and place accused was found in illegal possession and selling of total illicit arrack transporting without permission or license. But, the prosecution has failed to prove the same. Therefore, the evidence available on record does not inspire confidence of the court to prove the guilt of the accused. Hence, the oral and documentary evidence

available on record will not be helpful to the prosecution case.

19. On perusal of chemical analysis report which is marked as per Ex.P.10, it is not forthcoming that the arrack seized in the present case is illicit arrack which is noxious and is unfit for human consumption. As stated supra, all other witnesses examined by the prosecution are official witnesses. In the absence of evidence of independent witnesses, it is unsafe to believe the version of official witnesses only, to prove the guilt of the accused. Further, Pw1 has not prepared the Ex.P3-search warrant in accordance with law, since they have sufficient time to take prior permission. Hence, perusal of testimonies of Pws-1 to 7 coupled with documentary evidence at Exs.P1 to 10, I am of the opinion that, the prosecution has utterly failed to prove the charges leveled against the accused and at the same time, the accused is entitled for the benefit of doubt. Hence, in view of my above

discussions, **I answer Point No.1 & 2 in the Negative.**

20. Point No.3:- In view of the findings on the above point Nos.1 & 2, the court proceeds to pass the following:

:: ORDER ::

- i. Accused found not guilty for the offences punishable under section 32 and 38A of Karnataka Excise Act and Section 273 of IPC.
- ii. Acting U/Sec.248(1) of Cr.P.C., the accused is acquitted for the offenses punishable U/Sec.32 and 38A of Karnataka Excise Act and Sec.273 of IPC.
- iii. The bail bond of the accused and of her surety executed at earlier stage shall stand extended for a period of 6 months in view of Section 437 (A) of Cr.P.C.
- iv. MO-1 being worthless should be destroyed after appeal period.

(Dictated to the Stenographer directly on computer, after typing, corrected, signed and then pronounced by me in the open Court this 30nd day of July, 2026)

(Shashidhara M.Gowda)
Prl.Senior Civil Judge & JMFC,
Basavana Bagewadi.

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

Pw1	Jagadish Bhimashen Bajantri
Pw2	Shivashankar Sangappa Rayagond
Pw3	Basappa Ramappa Chalawadi
Pw4	Sulochana Yallappa Laskar
Pw5	Shivaji Dharmaji Joshi
Pw6	Vijayakumar Melavanki
Pw7	Vithal Peerappa Jirankalagi

List of exhibits marked on behalf of the prosecution:

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7a	Sign of Pw6

8	Report from PDO Mulawad
8a	Sign of Pw6
9	Letter addressed to FSL
9a	Sign of Pw6
10	FSL report
10a	Sign of Pw6

List of witnesses examined on behalf of accused

		-Nil
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List of exhibits marked on behalf of the accused:

		- Nil -
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Material objects marked

MO-1		Sample bottle
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Pr1.Senior Civil Judge & JMFC
Basavana Bagewadi.