

KAYG010021402018



1

Spl.C No. 85/2018

Presented on : 24-11-2018
Registered on : 24-11-2018
Decided on : 19-06-2026
Duration : 07 Y, 06 M, 25 D.

**IN THE COURT OF THE PRL. DISTRICT AND SESSIONS
JUDGE, YADGIR**

Dated this the **19th day of June, 2026**

PRESENT

Sri.Marulasiddaradhy H.J.

B.A, LL.B.,LL.M

Prl. District and Sessions Judge,
Yadgir.

Spl.C.No. 85/2018

Complainant:

The State of Karnataka
through Yadgiri (R) Police Station.

(By Special Public Prosecutor)

Vs.

Accused:

Sharanappa S/o Basappa Hadapad
Age: 48 years, Occ: Agriculture
R/o Honagera, Tq: Yadgiri

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

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1)	Date of offence	08.01.2018
2)	Date of report of offence	08.01.2018
3)	Arrest of the accused	09.01.2018
4)	Release of the accused	12.01.2018



3)	Name of the complainant	Sri. Arun Kumar, PSI
4)	Date of commencement of recording of evidence	24.03.2025
5)	Date of closing of evidence	16.12.2025
6)	Offences complained of	U/Sec.20(b) of NDPS Act, 1985.
7)	Opinion of the Judge	Accused is found not guilty.

J U D G M E N T

Accused is charged and prosecuted for the offences punishable U/Sec.20(b) of NDPS Act, 1985.

2) The brief facts of the case reveal from the contents of FIR that, on 08.01.2014 in the morning, the complainant / police officer received credible information about the accused growing Ganja in his land at Katagi Shahapur-S Hosalli Road in his land without license or permission. Accordingly, on the same day at about 12.30 pm the complainant/ police officer along with two panchas, his staff and CW-7 Gazetted officer raided his land and found the accused growing 03 KG of Ganja in his land and the same has been seized under panchanama at the spot. The



accused at the spot managed to escape. On enquiry with the neighbours, the identification of the accused got confirmed. Subsequently based on panchanama and report submitted by the complainant/ police officer, complaint is registered as Crime No.11/2018.

3) The investigating officer after due investigation submitted charge sheet against the accused for the offences punishable U/Sec.20(b) of NDPS Act, 1985.

4) The investigating officer in his charge sheet submitted with list of 10 witnesses. This court after taking cognizance secured accused read over the charges and explained the charges. The accused pleaded not guilty and claimed to be tried.

5) The prosecution has examined material witnesses CW1, 3, 4, 7, 6, 8 & 10 as PW-1 to 8 and got marked Ex.P.1 to 7 and also got marked MO-1.

6) After conclusion of trial, statement of the accused was recorded under Sec.351 of BNSS and the



accused denied all the incriminating circumstances appeared in the evidence and he has not adduced any defence evidence.

7) Heard the arguments on both sides. Perused the oral and documentary evidence on record.

8) The following points arise for my determination are:

1) Whether the prosecution proved beyond reasonable doubt that, based on credible information when the complainant/ police officer raided the land of accused on 08.01.2014 at about 12.30 pm in presence of panchas and gazetted officer, he found the accused growing 3 Kgs of Ganja without license or permission and the same has been seized under panchanama and thereby committed the offence punishable U/sec.20(b) of NDPS Act?

2) What order or sentence?

9) My findings on the above points are as follows;



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

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

R E A S O N S

10) Point No.1: The case of the prosecution clearly reveals from the charge sheet material that, on 08.01.2014 in the morning, the complainant/ police officer received credible information about the accused growing Ganja in his land at Katagi Shahapur-S Hosalli Road in his land without license or permission. Accordingly, on the same day at about 12.30 pm the complainant/ police officer along with two panchas, his staff and CW-7 Gazetted officer raided his land and found the accused growing 03 KG of Ganja in his land and the same has been seized under panchanama at the spot. The accused at the spot managed to escape. On enquiry with the neighbours, the identification of the accused got confirmed. Subsequently based on panchanama and report submitted by the complainant/ police officer, complaint is registered as Crime No.11/2018.

11) The prosecution towards establishing its case examined the complainant/ police officer as PW-1, one



official pancha as PW-2, one police officer present during raid as PW-3, one Gazetted officer as PW-4, one business man who weighed Ganja as PW-5, investigating officers as PW-6 & 7, RFSL expert as PW-8. It has also got marked one seizure panchanama, report, record of rights, RFSL report as per Ex.P1 to 7 along with sample Ganja as per MO-1.

12) PW-1 complainant police officer deposed about receiving credible information on 08.01.2014 and accordingly by securing panchas, gazetted officer he proceeded towards the spot along with his staff at S-Hosahalli, Katagi Shahapur, Hohasalli road and found Ganja plants grown in the land of accused and the accused managed to escape from the spot. On removing the Ganja plants and weighing them it came to 3 Kgs in total and the same is seized under panchanama drawn from 12.30 pm to 1.30 pm as per Ex.P1. Subsequently by preparing the report as per Ex.P2, he returned to the police station and lodged complaint.

13) In his cross examination by the learned defense



counsel, he admitted that, he has not made any effort to secure independent panchas and he has not taken any written permission from his higher officers before proceeding to the spot for raid. He has not brought any village accountant to the spot and he came to know that, the person ran away from the spot is none other than the accused Sharanappa. But he has not recorded the statement of any neighbour who identified him. He admitted absence of survey number in the panchanama. Further he denied the other suggestions of learned counsel as false.

14) One official panch witness examined as PW-2 deposed about his presence at the raid along with his colleague CW-2 and seizure of Ganja from the spot by separating the sample under Ex.P1 panchanama. He identified the Ganja sample as per MO-1. In his cross examination, he admitted that, no revenue officer has been called by the police to the spot at the time of raid.

15) PW-3 the police officer who accompanied the complainant at the time of raid deposed about the



proceeding to the spot in the Government jeep and raid held at the spot by seizing three KG of Ganja grown in the land of accused who managed to escape from the spot. He identified MO-1 sample Ganja. In his cross examination by the learned defense counsel, he admitted that, they get confirmed about identifying of the accused through the statement of neighbours, but except their oral say, CW-1 has not recorded their statement.

16) PW-4 is the Gazetted officer who was present with the complainant at the spot to conduct raid deposed about his presence holding raid, seizing Ganja and separating the sample as per Ex.P1 panchanama and identified MO-1 Ganja sample. In his cross examination, he admitted that, before entering the land of accused, he was ignorant whether CW-1 has prepared search warrant. Further he denied the other suggestions as false.

17) PW-5 is the business man who accompanied the complainant to the spot to assist in weighing Ganja turned completely hostile to the prosecution case and denied about



seizing Ganja weighed by him at the spot and also denied giving his statement as per Ex.p3.

18) PW-6 & 7 are the investigating officers deposed about registering Suo-moto complaint as per Ex.P2 and submitting of FIR along with seizure of MO-1 Ganja. Further they deposed about recording the statement of witnesses, collection of pahani of the spot and submitting the charge sheet.

19) PW-6 in his cross examination by the learned defense counsel admitted that, as per Ex.P2 the date mentioned as 23.10.2016 instead of 08.01.2018. Even he admitted to has not get done inventory of seized Ganja before the learned Magistrate. Even he has not enquired any neighbour to the land of accused to confirm about his identification and cultivation.

20) PW-7 another investigating officer admitted that, he has not visited the spot and mentioned the date and time in column No.17 of the charge sheet.

21) PW-8 is the RFSL expert deposed about chemical



examination of seized sample in the laboratory and he found Ganja as per Ex.P6 report. He identified MO-1 Ganja sample which has been subjected to chemical examination by him. He completely denied the other suggestions of learned defense counsel as false.

22) Further the prosecution has got marked one seizure panchanama, one report, record of right, RFSL report along with other documents as per Ex.P1 to 7.

23) The learned defense counsel has relied upon the judgments as under:

1. *Mujeeb Mehboob v/s State of Karnataka, Kar.L.J 2013 (2) Page 171.*

7. The definition of 'cannabis' in Section 2(iii) of the NDPS act is as under:

(iii) "Cannabis (hemp) means--

(b) ganja, that is, the flowering or fruiting tops of the cannabis plant (excluding the seeds and leaves when not accompanied by the tops), by whatever name they may be known



or designated: and.

2. Mohammed Khalid and Anr. V/s State of Telangana, Criminal Appeal No.1610 / 2023. Supreme Court of India.

In the cross examination, the witness admitted that he did not file any document to show that the property was kept in Malkhana. The malkhana register was not produced in the court.

3. Sharukh V/s State of Karnataka, Criminal Appeal No.200230/2023, High Court of Karnataka.

10. Perusal of the available material on record would go to show that prior to forwarding the sample of the contraband article-ganja to the Forensic Science Laboratory the inventory of the seized contraband article- ganja was not prepared and got certified before the jurisdictional Magistrate by the investigating



officer as required under Section 52A of the NDPS Act.

11. Section 52(A) of sub-section (2), (3) and (4) of NDPS Act provides for the procedure and manner of seizing, preparing of inventory of the seized contraband article, drawing of sample and getting inventory certified by the Magistrate etc.,.

24) As per the judgments relied upon by the learned defense counsel, it is observed by the Hon'ble Supreme Court that, "only the fruiting and flowering part of cannabises plants that constitute Ganja and not include seeds and leaves". Further it has also held that, it is mandatory to comply the requirement U/sec.52A of NDPS Act while collecting Ganja sample before the learned Magistrate.

25) The Hon'ble High Court of Karnataka has also observed that, "the inventory of seized contraband -Ganja required to be prepared and certified before jurisdictional



Magistrate by the IO as required U/sec.52A of NDPS Act. The provision U/sec.52(A) (224) of the Act provides the procedure of seizing Ganja and preparing inventory along with drawing sample before learned Magistrate.” Hence mere collection of sample in presence of Gazetted officer is not sufficient U/sec.52A (2) of NDPS Act. Hence FSL report obtained cannot be considered as primary evidence and the trial gets vitiated.

26) The discussion above on oral and documentary evidence in this case clearly reveal that, the investigating officer has not separated the fruit and flowering part of cannabis plant to make it Ganja before weighing and collecting the sample for FSL examination. Even it is material to note that, neither PW-6 nor PW-7 being the investigating officers have get prepared inventory and obtained samples in presence of jurisdictional Magistrate as required U/sec.52A of NDPS Act.

27) Accordingly even though Ex.P6 RFSL stood in support of the prosecution case and evidence of PW-8



corroborates the contents of Ex.P6, the same cannot be proved to be establish the prosecution case.

28) Hence as it is apparent from the evidence on record that, the investigating officer has not fulfilled the statutory requirement U/sec.52A(3) of NDPS Act in drawing samples and preparing inventory before the jurisdictional Magistrate, the same resulted in creating reasonable doubt and the benefit of the same shall be given to the accused.

29) Further it is also to be noted that, the investigating officers, complainant and panchas came to know the presence of accused through the neighbours, but none of the neighbours who identified the accused cultivating the land and growing Ganja is made the charge sheet witness and examined before the court. The accused has been charge sheeted by the investigating officer for being the owner and cultivator of land in Sy No.117/Aa without any evidence to show actual cultivation of the land and growing Ganja. Accordingly the case of prosecution fell completely under reasonable doubt. Hence the accused is



entitled to be acquitted to the charged offences. Thus I answer this point in the **Negative**.

30) Point No.2:- In view of my negative findings to point No.1, I proceed to pass the following;

ORDER

Acting U/Sec.235(1) of the Code of Criminal Procedure, accused is hereby acquitted of the offence punishable U/Sec. 20(b) of NDPS Act, 1985.

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

Properties in PR No.15/2023 being worthless is ordered to be destroyed after expiry of appeal period.

The accused shall execute bail bond with one surety for Rs.50,000/- by undertaking to appear before the higher court as and when such court issue notice in respect of any appeal or petition filed against judgment of this court as required U/sec.481 of BNSS.

(Dictated to the Stenographer Grade-III, transcribed, corrected it, taken out print, signed and then pronounced by me in the open Court on **19th day of June, 2026**)



(Marulasiddaradhy H.J.)
Prl. District & Sessions Judge,
Yadgir.

ANNEXURES

List of witnesses examined for Prosecution:

PW-1 : Arun Kumar S/o Yesumitra
PW-2 : Shashidhar S/o Shivaraj Maddi
PW-3 : Abdul Basha S/o Lal Ahmad
PW-4 : Prahalad Joshi S/o Venkobachari Joshi
PW-5 : Devaraj S/o Basappa
PW-6 : Basavaraj S/o Sanganna
PW-7 : N.Y Gundurao S/o Yallappa
PW-8 : Dr. Yaralkatti Manjunath S/o Tippanna

List of witnesses examined for Accused persons:-

- Nil -

List of exhibits marked for Prosecution:

Ex.P1 : Seizure panchanama
Ex.P1(a to c): Signatures
Ex.P2 : Report
Ex.P2(a & b): Signatures
Ex.P3 : Statement of PW-5
Ex.P4 : FIR
Ex.P4(a) : Signature

KAYG010021402018



17

Spl.C No. 85/2018

Ex.P5 : ROR

Ex.P6 : Test report

Ex.P6(a) : Signature

Ex.P7 : Model seal

Ex.P7(a) : Signature

List of exhibits marked for Accused persons:

- Nil -

List of material objects Marked

MO.1 : Ganja packet

Prl. District and Sessions Judge,
Yadgir.