

KAYG210017652025



**IN THE COURT OF THE SENIOR CIVIL JUDGE &
JMFC., SHAHAPUR.**

Present: Smt.Hema Pastapur,B.A., LL.B
SENIOR CIVIL JUDGE & JMFC.,
SHAHAPUR.

C.C.No.851/2025

Dated this 06th day of June-2026

Complainant:- State represented by Bheemarayana
Gudi Police Station.

(By Learned APP)

Versus

Accused:- Hanamant S/o Mallappa,
Age: 25 years, Occ: Kirani business,
R/o Shirwal village, Tq: Shahapur,
Dist: Yadagiri.

(By Shri. R.M.H., Advocate)

Name of the complainant : Shri. Mahantesh Patil -PSI-
CW.1

Date of commission of : 05.07.2025
offence

Offences complained : Under Sections 32 and 34 of
Karnataka Excise Act.

Date of release of the : 15.12.2025
accused on bail

Date of commencement : 23.02.2026
of evidence
Date of closing of : 25.05.2026
evidence
Date of Judgment : 06.06.2026
Opinion of the Judge : Accused not found guilty.

J U D G M E N T

1. That, the PSI of Bheemarayanagudi Police Station has submitted the Final report against the accused for the offences punishable under Sections 32 and 34 of the Karnataka Excise Act.
2. It is the case of the prosecution that, the accused on 05.07.2025 at about 07.15 p.m., near Masidi, Shirwal village, was illegally selling the Original choice whiskey pouches each containing 90 M.L.
3. That, on complaint being lodged by the CW-1, the said Police have registered the case against the accused in Crime No.60/2025 and the Investigating Officer after completion of investigation has submitted the Final report against the accused for the alleged offences.

4. That, this Court after taking the cognizance of alleged offences has issued the summons to the accused. That, the accused in pursuance of alleged summons has appeared before this Court through his learned counsel and he is enlarged on bail. That, the provisions of Section 230 of the Bharatiya Nagarik Suraksha Sanhita, have been complied herewith. That, the charge of the accused has recorded and read over to him in language known to him and he has not pleaded guilty and claimed to be tried.

5. That, the prosecution to prove its case has got examined the PWs.1 to 6 and got marked documents at Exs.P.1 to 5(a) and MO.No.1 and closed its side. That, the Exs.P1 and 3 are the same documents.

6. That, after completion of prosecution side evidence the statement of the accused as contemplated under Section 351 of the Bharatiya Nagarik Suraksha Sanhita, has recorded and read over to him in language known to him and he denied all incriminating

evidence appearing against him and not chosen to lead either oral or documentary evidence on his behalf.

7. That, I have heard the arguments and perused the materials placed on record. That, the following points arise for My consideration :-

1. Whether the prosecution has proved that, the accused on 05.07.2025 at about 7-15 p.m., near Masidi, Shirwal village, was illegally selling the Original Choice Whisky pouches and thereby has committed the offences punishable under Sections 32 and 34 of Karnataka Excise Act ?

2. What Order ?

8. That, My answer to the aforesaid points are as under :-

Point No.1:- In the **NEGATIVE**.

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

REASONS

9. **Point No.1:-** That, the prosecution to prove its case has got examined the Complainant - CW-1 as PW.6. That, the PW.6 in his chief of examination has

deposed that, on 05.07.2025 at 07.15 P.m., he received the credible information that the accused near Masidi of Shirwal village, was illegally selling the Original Choice whiskey pouches and after receiving the said he secured the panchas and visited the spot and found that the accused was selling the pouches. That, this witness has further deposed that he conducted the raid on the accused and got seized from him 32 Original choice whisky pouches and got seized one pouch separately for chemical analysis and conducted the Seizure panchanama - Ex.P.1 from 08:00 p.m., to 09:00 p.m., and due to paucity of time he had not sought the prior permission of the Jurisdictional Court and thereafter, submitted the Varadi - Ex.P2 before the CW8.

10. It is significant to note here that, the PW6 in his chief has deposed that he had received the said information at about 07.15 P.m., and he reached the spot at 07.55 P.m. and due to paucity of time he had not obtained the permission from the Jurisdictional

Court prior to conducting the alleged raid. It is pertinent to note here that, the PW6 has not stated the same either in Ex.P2 or in Ex.P3. That, inspite of having sufficient time the PW6 had not bothered to seek the prior permission of the concerned Court. That, the PW6 has failed to comply with the mandatory provisions of the section 54 of the Karnataka Excise Act. That the said conduct of the PW6 has vitiated the entire case of the prosecution.

11. That, the CW.4-PW.3 and the CW.6-PW.4 -Who accompanied in alleged raid have deposed as that of PW6.

12. That, the prosecution has got examined the Seizure Mahazar witnesses – CW.3 as PW1 and the CW2 as PW5. That the PWs1 and 5 have turned to hostile and not supported the case of the prosecution. That, the prosecution has failed to prove the contents of Ex.P1 and seizure of alleged pouches.

13. That, the CW8-PW2 – Investigating Officer has deposed about the manner of investigation conducted by him in present case.

14. It is to pertinent to note here that, in this case as stated about the PW6 has failed to comply with the mandatory provisions of Section 54 of the Karnataka Excise Act and the prosecution has failed to prove the contents of Ex.P1 and seizure of alleged pouches. That, from the entire evidence of all the witnesses it clearly appears that only for a statistical purpose the accused has been falsely implicated in the present case. That, in this case the accused gets benefit of doubt. That the prosecution has failed to prove the guilt of the accused. Accordingly, the point No.1 is answered in the **NEGATIVE.**

15. **Point No.2:-** That, as discussed on point No.1, I proceed to pass the following :-

ORDER

That, acting under Section 271(1) of
Bharatiya Nagarik Suraksha Sanhita, the

accused is acquitted for the offences punishable under Sections 32 and 34 of Karnataka Excise Act.

That, the bail bonds of the accused shall remain in force for 06 months in compliance of section 481 of the Bharatiya Nagark Suraksha Sanhita.

That, the MO.No.1 shall be sent to the Excise Department after appeal period.

(Directly dictated to the stenographer, typed by him, corrected by me and then pronounced in the open Court on this 06th day of June-2026).

(Hema Pastapur)
Senior Civil Judge and JMFC,
Shahapur.

A N N E X U R E

List of witnesses examined on behalf of prosecution :-

- PW.1 : Mallikarjun S/o Ningappa.
PW.2 : Hulgappa S/o Bhimaraya.
PW.3 : Manjunath S/o Mahantgouda.
PW.4 : Shankar S/o Tippanna.
PW.5 : Mallikarjun S/o Neelu Pawar.
PW.6 : Mahantesh S/o Gurubhim Patil

List of documents marked on behalf of Prosecution:-

- Ex.P.1 : Seizure panchanama.

Ex.P.1(a) : Signature of PW.1.
Ex.P.1(b) : Signature of PW.6.
Ex.P1(c) : Signature of PW.5.
Ex.P.2 : Varadi.
Ex.P.2(a) : Signature of PW.2.
Ex.P.2(b) : Signature of PW.6.
Ex.P.4 : FIR.
Ex.P.5 : FSL report.
Ex.P.5(a) : Signature of PW.2.

List of witnesses examined on behalf of the accused:-

--NIL--

List of documents marked on behalf of the accused.

--NIL--

List of MO marked:-

MOs.No.1 : One sample of Original Choice
Whisky pouch.

**(Hema Pastapur)
Senior Civil Judge and JMFC,
Shahapur.**