

**IN THE COURT OF THE SESSIONS JUDGE, SESSIONS DIVISION,
ALAPPUZHA**

Present: Smt. BHARATHI S., Addl. Sessions Judge II

Thursday the 12th day of March, 2026

SESSIONS CASE No.779/2019 (Filed on. 06.11.2019)
(Crime No.69/2019 of the Excise Range Office, Alappuzha.)

Complainant : The State represented by
the Excise Inspector,
Excise Range Office, Alappuzha.

(By Adv. Sri. S.A Sreemon, Addl. Public
Prosecutor, Alappuzha.)

Accused : Thanzeer, aged 26/2019 years,
S/o. A.H.Nazar
Thattaparambu Kattuparambil Veetil,
Palluruthy Village, Kochi Taluk,
Ernakulam District, Now residing at
Aasariparambu Veedu, Thrichattukulam,
Panavally P.O., Panavally Village,
Cherthala Taluk.

(By Adv.Sri.Sudheesh T.T.(LADCS))

Offence : u/S.20(b)(ii)(B) of the Narcotic Drugs
and Psychotropic Substances Act.

Plea : Not guilty

Finding : Accused is found guilty of the offence
punishable u/S.20(b)(ii)(B) of the
Narcotic Drugs and Psychotropic
Substances Act.

Sentence/Order : Accused is sentenced to undergo
rigorous imprisonment for a period of
four years and to pay fine of ₹25,000/-,
in default to undergo rigorous

imprisonment for six months, u/S.20(b) (ii)(B) of the Narcotic Drugs and Psychotropic Substances Act. Period undergone in remand is allowed as set off. Confiscate MO1, MO3 and MO4 as provided u/S.60 r/wS.63 of the Narcotic Drugs and Psychotropic Substances Act. MO2 and MO5 shall be destroyed after the appeal period.

DESCRIPTION OF THE ACCUSED

Sl. No.	Name	Father's name	Occupation	Residence	Age
1.	Thanzeer	A.H.Nazar	-	Thattaparambu Kattuparambil Veetil, Palluruthy Village, Kochi Taluk, Ernakulam District. Now residing at Aasariparambu Veedu, Thrichattukulam, Panavally P.O., Panavally Village, Cherthala Taluk.	26/19

DATES OF

Occurrence	20.09.2019
Complaint	20.09.2019
Apprehension of appearance	20.09.2019
Release on bail	21.12.2019
Commencement of trial	03.11.2025
Close of trial	06.03.2026
Sentence or Order	12.03.2026
Explanation of delay	No delay

This case having been finally heard on 06.03.2026 and the court on 12.03.2026 delivered the following:-

JUDGMENT

1. This is a case taken on file based on a complaint filed by the Excise Inspector, Excise Range Office, Alappuzha alleging offence punishable u/Ss.20(b)(ii)(B) and 25 of the Narcotic Drugs and Psychotropic Substances Act.
2. Case of the prosecution, in brief, is the following: On 20.09.2019 at 9.40 p.m., near to Thayyil bus stop at Alappuzha – Arthunkal coastal road in Kalavoor village, accused was found in possession of 1.1kg of ganja kept in his motorcycle. Thus the accused is alleged to have committed offence punishable under the above provisions of law.
3. Complaint was filed before the Sessions Court, Alappuzha. After taking cognizance, the Sessions Court made over the case to this court for trial and disposal.
4. Accused appeared before this court. After hearing both sides, this court framed charge against the accused for offence punishable u/S.20(b)(ii) (B) of the Narcotic Drugs and Psychotropic Substances Act, read over and explained to him to which he pleaded not guilty. Prosecution

thereafter examined PWs 1 to 4 and marked Exts.P1 to P16 and MO1 to MO5.

5. On closing the prosecution evidence, this court examined the accused u/S.313 of the Code of Criminal Procedure. Heard both sides u/S.232 of the Code of Criminal Procedure. Finding that this is not a fit case to acquit the accused u/S.232 of the Code of Criminal Procedure, this court directed him to adduce defence evidence. But he did not adduce any defence evidence.
6. Heard both sides.
7. Following are the points arising for consideration:
 1. Whether the accused has possessed 1.100 kg of ganja as alleged by the prosecution ?
 2. Whether the prosecution has succeeded in proving any offence against the accused?
 3. Whether the accused is liable to be convicted or acquitted?
 4. In case of conviction, what shall be the proper sentence ?

Point Nos. 1 and 2

8. These points can be discussed together for the sake of convenience.
PW1 is the detecting officer. He deposed about the detection and

procedure followed by him. According to him, on 20.09.2019 at night, while he was doing vehicle inspection along with Alappuzha Excise Intelligence party at Thayyil junction, he saw a person riding two wheeler from the southern side and he tried to turn towards another road on seeing the Excise party and fell down. This witness deposed that when he reached near to him, the said person ran towards east. He could not be traced out. Thereafter this witness inspected the said vehicle bearing no.KL-32/M-6980 and he found 1.100 kg of ganja which was kept below the seat. He has also recovered a copy of the learner's license and copy of Aadhaar card in the name of one Thanseer. According to him, the photos in those documents were that of the person who ran away. He identified the said person as accused. He thereafter took two samples of 25 gm each, packed and affixed his personal seal over the same. He has also packed, sealed and seized the remaining contraband. Ext.P1 is identified as the mahazar prepared by him. He thereafter registered the case. Ext.P2 is the crime and occurrence report. He has submitted a report u/S.57 of the Narcotic Drugs and Psychotropic Substances Act which was identified by him as Ext.P3. Exts.P5 and P6 are application u/S.52A of the Narcotic Drugs and Psychotropic Substances Act and the inventory. Ext.P7 is the order

of the Magistrate and Ext.P8 series are the photographs taken at the time of certification of the inventory. He has filed the forwarding note also. Ext.P9 is the copy of forwarding note. According to him, one sample taken from the spot and one representative sample taken before the Magistrate were sent for analysis. He identified the contraband, the reserve samples, the paper used to cover the ganja as MO1 to MO5 and the documents allegedly seized from the motorcycle before the court as Exts.P10 and P11.

9. PW2 is an independent witness examined by the prosecution. He identified his signature in Ext.P1. He has also identified the signatures on the labels affixed on MO2, MO3 and MO5. According to him, he saw the Excise Officials seizing ganja beneath the seat of a Scooter near to Thayyil stop during September 2019 in the night. According to him, he saw the accused falling down while riding the above Scooter. He further deposed that he then ran away. He identified the accused from the court.

10. PW3 is the village Officer who prepared Ext.P13 site plan.

11. PW4 is the investigating officer. He identified Ext.P3 as the report u/S.57. He then prepared Ext.P14 scene mahazar. He recorded the statement of the witnesses. According to him, accused surrendered on

09.10.2019 before the court. Ext.P16 is the chemical examination report obtained. On completing the investigation, he filed the complaint.

12. PW2 though identified the accused during his chief examination, deposed during his cross examination that he did not see the person who ran away. Considering the said version of PW2, no evidentiary value can be given to the identification of the accused made by PW2 during his chief examination. However the said fact alone is not sufficient to discard the case of the prosecution, provided the prosecution is otherwise able to prove its case by adducing sufficient and reliable evidence.
13. There is no spot arrest of the accused and detection of any contraband from the physical possession of the accused in this case. But, PW1 has clearly identified the accused as the person who rode the Scooter with the alleged contraband. On going through the cross examination of PW1, there is no serious challenge seen made regarding the identification made by PW1. The accused has made a contention that PW1 has deposed against the accused only based on the documents obtained from the two wheeler. It has come out in evidence that PW1 has detected the copies of Aadhar card and learners license of the

accused from the vehicle from which the contraband was allegedly detected. There is no explanation on the side of the accused as to how these documents were happened to be kept in the above vehicle. On going through the evidence of PW1, there is nothing seen to disbelieve the evidence of PW1 regarding the identification of accused as the person who rode the two wheeler from which the contraband was allegedly detected.

14. From the evidence, it is seen that the alleged recovery herein is only a chance recovery. Therefore, Section 50 of the Narcotic Drugs and Psychotropic Substances Act has got no relevance in the case.
15. Ext.P3 is the Report submitted by PW1 u/S.57 of the Narcotic Drugs and Psychotropic Substances Act. PW4 deposed about receipt of the said document on the very same day of the detection. This document also is not challenged during the evidence of PW1 and PW4.
16. It has come out during the evidence of PW1 that he has filed necessary application before the Judicial First Class Magistrate concerned u/S.52A of the Narcotic Drugs and Psychotropic Substances Act and took representative samples. The procedure u/S.52A of the Narcotic Drugs and Psychotropic Substances Act also is not challenged during the cross examination of PW1. Ext.P5 is the application submitted by

PW1 and Ext.P6 is the inventory. As per Ext.P7, the learned Magistrate certified that the seal and labelling in the contraband produced were intact and two representative samples were taken and the remaining quantity of the contraband was found as 1020 gm. It is further stated in Ext.P7 that the contraband which was marked as 'P' (which according to PW1 is the contraband after taking samples from the spot) was found as 1125 gms with brown paper and 1071 gm without the brown cover. On an enquiry regarding the difference regarding the weight (according to PW1, the weight of remaining contraband was 1050 gm), the learned Additional Public Prosecutor submitted that the excess weight was of the polythene cover since the remaining contraband after taking two samples from the spot was produced by PW1 by using a polythene cover, which is revealed in the evidence of PW1. The explanation appears to be acceptable. Ext.P8 series are the photographs of the procedure of sampling done in the presence of the learned Magistrate.

17. During cross examination, a contention was taken by the accused that the properties were produced before the court only on 26.09.2019 which is denied by PW1. He was specific to the effect that he has produced the properties on 23.09.2019 and according to him, 21st and

22nd were holidays. He also deposed that till production of properties before the court they were under his safe custody. Ext.P4 property list also shows that the properties were produced before the Judicial First Class Magistrate on 23.09.2019. The property list also contains specimen of the seal allegedly used by PW1. There is nothing on record which would probablise any tampering of the contraband before production in the court.

18. Ext.P9 is the copy of forwarding note submitted by PW1. According to PW1, one sample taken by him from the spot and another sample taken before the learned Magistrate were sent for chemical examination as per the forwarding note. Ext.P9 contains the specimen of the seal affixed on the samples by PW1. Ext.P16 is the chemical report obtained in this case. As per Ext.P16, it is stated that the seals on the sample packets were intact and found tallied with the sample seals provided. It is further stated in the chemical report that the samples were identified as ganja (cannabis sativa).

19. In view of the discussion above and on analysing the evidence placed, it is found that the prosecution has succeeded in satisfactorily proving the detection of 1.100 kg of ganja from the possession of the accused.

20. Section 54 provides for a presumption with regard to the possession of illicit articles under the Narcotic Drugs and Psychotropic Substances Act, which of course is a rebuttable presumption. Unless and until it is rebutted, it may be presumed that the accused has committed an offence under this Act in respect of any narcotic drug for the possession of which he fails to account satisfactorily. In the case on hand, there is no explanation for the accused as to how the contraband item reached his possession. Therefore the presumption also is available in favour of the prosecution.
21. Under the provisions of Narcotic Drugs and Psychotropic Substances Act, 1 kg of ganja is defined as small quantity and 20kg and above is defined as commercial quantity.
22. *Section 20(b)(ii) (B) deals with punishment for possessing ganja/Cannabis of quantity lesser than commercial quantity, but greater than small quantity.*
23. *As per Sec.8(c) of the Narcotic Drugs and Psychotropic Substances Act, no person shall produce, manufacture, possess, sell, purchase, transport, warehouse, use, consume, import inter-State, export inter-State, import into India, export from India or tranship any narcotic*

drug or psychotropic substance except for medical or scientific purposes and as provided under the said provision.

24. Narcotic drug includes Cannabis (hemp) as per sec.2(xiv). *Sec. 2(iii)(b) provides that Cannabis(hemp) means ganja, that is, the flowering or fruiting tops of the cannabis plant (excluding seeds and leaves when not accompanied by the tops), by whatever name they may be called or designated.*
25. Considering all the above and on analysing the evidence placed, it is found that the prosecution has succeeded in satisfactorily proving the offence punishable u/S.20(b)(ii)(B) of the Narcotic Drugs and Psychotropic Substances Act against the accused. Points are answered accordingly.

Point No.3:

26. In view of the findings on the above points, accused is found guilty of offence punishable u/S.20(b)(ii)(B) of the Narcotic Drugs and Psychotropic Substances Act and is liable to be convicted for the said offence. Point is answered accordingly.
27. In the result, accused is found guilty of the offence punishable u/S.20(b)(ii)(B) of the Narcotic Drugs and Psychotropic Substances Act and he is convicted thereunder.

28. In view of Section 33 of the Narcotic Drugs and Psychotropic Substances Act, provision of the Probation of Offenders Act or Section 360 of Criminal Procedure Code (Section 401 of Bharatiya Nagarik Suraksha Sanhita) are not applicable to the case on hand. Therefore, accused will be heard on question of sentence.

Dictated to the Confidential Assistant, transcribed and typed by her, corrected by me and pronounced in open court on this the 12th day of March, 2026.

Sd/-
BHARATHI S.
ADDL. SESSIONS JUDGE-II

Point No.4

29. Heard the accused on question of sentence. Accused submitted that he is innocent of the offence alleged. He further submitted that he has got a wife and son.
30. The learned Additional Public Prosecutor requested for maximum sentence in the case and submitted that the offence is affecting the society as such.
31. Considering the facts and circumstances, the nature of offence, the quantity involved and the submissions, this court is of the opinion that a sentence of rigorous imprisonment for a period of four years and fine of ₹25,000/-, in default, to undergo rigorous imprisonment for six months would meet the ends of justice. Point is answered accordingly.

32. In the result, accused is sentenced to undergo rigorous imprisonment for a period of four years and to pay fine of ₹25,000/-, in default to undergo rigorous imprisonment for six months, u/S.20(b)(ii)(B) of the Narcotic Drugs and Psychotropic Substances Act. Period undergone in remand is allowed as set off. Confiscate MO1, MO3 and MO4 as provided u/S.60 r/wS.63 of the Narcotic Drugs and Psychotropic Substances Act. MO2 and MO5 shall be destroyed after the appeal period.

Dictated to the Confidential Assistant, transcribed and typed by her, corrected by me and pronounced in open court on this the 12th day of March, 2026.

Sd/-
BHARATHI S.
ADDL. SESSIONS JUDGE-II

APPENDIX:-

Witnesses for the Prosecution side:-

PW1/CW1	V.J.Roy	Excise witness
PW2/CW9	Santhosh	Eye witness
PW3/CW11	Prakash.R	Other witness
PW4/CW13	P.Vinayakumar	Excise witness

Exhibits for the Prosecution side:-

P1/PW1	20.09.2019	Seizure Mahazar
P2/PW1	20.09.2019	Crime & Occurrence Report
P3/PW1	20.09.2019	Report u/S. 57 of NDPS Act

P4/PW1	26.09.2019	Property List
P5/PW1	21.09.2019	Application for certifying the correctness of inventory
P6/PW1	20.09.2019	Inventory of seized Narcotic drugs
P7/PW1	23.09.2019	Order of JFCM-I, Alappuzha
P8(series)/PW1	Nil	Photographs (9 nos)
P9/PW1	26.09.2019	Copy of Forwarding Note
P10/PW1	-	Copy of Aadhaar Card
P11/PW1	12.04.2019	Copy of Learner's Licence
P12/PW1	20.09.2019	Vehicle Inventory Report
P13/PW3	24.10.2019	Scene Plan
P14/PW4	22.09.2019	Scene Mahazar
P15/PW4	21.10.2019	Registration Particulars of Vehicle No. KL-32/M-6980
P16/PW4	16.10.2019	Chemical Examination Report

Witness for the Defence side:- NIL

Exhibits for the Defence side:-NIL

Material Objects:-

MO1	Dry Ganja	PW1
MO2	Brown paper & label used for packing Ganja	PW1
MO3	25 gm of Ganja	PW1
MO4	25 gm of Ganja	PW1
MO5	Paper cover (shaped as Box) wrapped with Cello tape	PW1

Id/-
ADDL. SESSIONS JUDGE-II