

TABULAR FORM

Serial Number : Sessions Case No.458/2023
and Crime No. of the offence : Excise Range Office, Kasaragod
Crime No.121/2020

DESCRIPTION OF ACCUSED

Name : Pranav Kumar.M
Father's Name : S/o Chandru.M
Age : 38/20
Occupation : --
Address : S.V.T Road Desom, Kasaragod Village.

DATE OF

Occurrence : 25.09.2020
Complaint : 25.04.2023
Apprehension : 27.04.2022
Released on bail : 14.06.2022
Commitment : 31.05.2023
Commencement of trial : 20.05.2025
Close of trial : 29.05.2026
Sentence or Order : 02.06.2026
Service of copy of Judgment
or findings of accused : --
Explanation for delay : --

Assistant Sessions Court, Kasaragod
Dated: 02.06.2026.

Sd/-
ASSISTANT SESSIONS JUDGE
KASARAGOD

IN THE COURT OF SESSION, KASARAGOD DIVISION

Present :- Smt.Priya.K.P, Assistant Sessions Judge.
Tuesday, the 2nd day of June, 2026/12th Jyaishta 1948.

SESSIONS CASE No.458/2023

(This case is committed by the Judicial First Class Magistrate-I, Kasaragod, as per C.P. No. 61/2023 dated: 31.05.2023).

Complainant	Excise Inspector, Kasaragod Excise Range. Crime No.121/2020 Represented by; Additional Public Prosecutor.
Accused	Pranav Kumar.M, aged 38/20, S/o Chandru.M, S.V.T Road Desom, Kasaragod Village.
Defended by	Adv.A.Gopalan Nair , Advocate for the Accused
Offence	U/s.58 of Kerala Abkari Act I of 1077.
Plea of the Accused	Not Guilty
Finding of the Judge	Not Guilty.
Sentence or order	Acquitted U/s. 235 (1) of Cr.P.C.

This case having been heard on this day and the Court delivered the following:-

JUDGMENT

The accused is put on trial for the offence punishable U/s. 58 of the Abkari Act I of 1077 (hereinafter referred to as 'the Act').

2. The prosecution case in brief is as follows:- At 6 p.m. on 25.09.2020, at Kasaragod Nellikunnu-Kadappuram road, accused without lawful authority was found in possession of 136 plastic bottles (each bottle having capacity of 180 ml) (total 24.480 litres) with Indian Made Foreign Liquor (hereinafter referred to as 'IMFL') which was permitted to be sold in the State of Karnataka and possessed

the same knowing that it has been unlawfully imported or transported from the State of Karnataka. Thus, the accused committed the offence punishable U/s. 58 of the Act.

3. The accused was arrested and produced before the committal court on 27.04.2022 and he was remanded to judicial custody. The accused was in judicial custody from 27.04.2022 to 14.06.2022.

4. The final report was filed in the above crime U/s. 173(2) of Cr.P.C. before the Judicial First Class Magistrate-I, Kasaragod and learned the Magistrate took the case on file as C.P. 61/2023.

5. On appearance of the accused, he was enlarged on bail. After furnishing the copies of the prosecution records, the learned Magistrate committed the case U/s. 209 of Cr.P.C. to the Court of Sessions, Kasaragod Division as per order dated 31.05.2023. Thereafter, the Hon'ble Sessions Judge took the case on file as SC.458/2023 and made over the case to this court for disposal.

6. On receipt of summons, the accused appeared before this court. After hearing both sides, the charge was framed against the accused U/s. 58 of the Act. When the charge was read over and explained to the accused, he pleaded not guilty and claimed to be tried.

7. In order to prove the case, the prosecution examined PW1 and PW2 and marked Ext.P1 to Ext.P9 series documents. After the closure of the prosecution evidence, the accused was examined U/s. 313 (1)(b) of Cr.P.C. He denied all the

incriminating circumstances appearing in evidence against him and pleaded his innocence.

8. Thereafter, the prosecution and the defence were heard U/s. 232 of Cr.P.C. Since, there is nothing to invoke the power U/s.232 of Cr.P.C., the accused was directed to enter upon his defence. No defence evidence was adduced.

9. Heard both sides.

10. The points that arise for consideration are:

(i) Whether the accused without lawful authority was found in possession of 136 plastic bottles (each bottle having capacity of 180 ml) of IMFL permitted to be sold in the State of Karnataka and knowing that the same has been unlawfully imported or transported from the State of Karnataka at 6 p.m. on 25.09.2020, at Kasaragod Nellikunnu-Kadappuram road?

(ii) What is the sentence or other orders to be passed?

11. Point No. (i):- The case of the prosecution is that at 6 p.m. on 25.09.2020, at Kasaragod Nellikunnu-Kadappuram road, accused without lawful authority was found in possession of 136 plastic bottles (each bottle having capacity of 180 ml) (total 24.480 litres) with IMFL which was permitted to be sold in the State of Karnataka and possessed the same knowing that it has been unlawfully imported or transported from the State of Karnataka.

12. PW1 is the Excise Circle Inspector, Excise Circle Office, Kasaragod and detected the offence. PW2 is the investigating officer.

13. PW1, the Excise Circle Inspector, Excise Circle Office, Kasaragod deposed that on 25.09.2020, while he was doing patrolling duty with excise party at Kasaragod – Nellikunnu Kadappuram road, he found accused who was carrying a plastic bag in his shoulder. Seeing the excise party the accused abandoned the plastic bag and escaped. On search of the plastic bag in the presence of witnesses, 136 plastic bottles printed as Boss Black and Gold Whisky, sale in Karnataka only, 180 ml were found. It was confirmed to be IMFL after tasting and smelling. He took custody of the plastic bag and had drawn sample of 360 ml IMFL in 375 ml bottle, sealed with his personal seal and labelled. The plastic bag with IMFL plastic bottle and empty plastic bottle after taking sample were also sealed, labelled and prepared Ext.P1 seizure mahazar. The above said items were produced to Excise Range Office, Kasaragod. He further deposed that he could identify the accused.

14. The Excise Inspector, Excise Range Office, Kasaragod registered Ext.P6 crime and occurrence report. The sample was produced before the court with property list (Ext.P7) and forwarding note (Ext.P8). The contraband was produced before the Deputy Excise commissioner and the inventory prepared is marked as Ext.P9 series.

15. PW2 conducted investigation of the case. He deposed that he prepared scene mahazar (Ext.P3), eye sketch (Ext.P4), recorded the statement of the

witnesses and submitted report before the court after completing the investigation. The chemical analysis report is marked as Ext.P5.

16. The evidence of PW1 revealed that on 25.09.2020, while he was doing patrolling duty with excise party at Kasaragod – Nellikunnu Kadappuram road, he found accused who was carrying a plastic bag in his shoulder. Seeing the excise party the accused abandoned the plastic bag and escaped. On search of the plastic bag in the presence of witnesses, IMFL plastic bottles were found and confirmed to be IMFL. He took custody of the plastic bag and had drawn sample from the spot. The contraband was also sealed and labelled and prepared Ext.P1 seizure mahazar. The Excise Inspector, Excise Range Office, Kasaragod registered crime and occurrence report (Ext.P6). The sample was produced before the court on 28.09.2020 with property list (Ext.P7) and forwarding note (Ext.P8). The property list does not contain the specimen seal impression of PW1. The delay in producing the sample before the court and its safe custody till that time remains unexplained. The sample was despatched from the court for chemical analysis through Civil Excise Officer, Jayarajan.A on 03.12.2020 and reached to the laboratory on 04.12.2020. The said officer was not examined for proving the tamper proof despatch of the samples to the laboratory. The inventory was prepared by the Deputy Excise Commissioner and was certified by Tahsildar, Kasaragod. It could not be explained that Tahsildar is the Executive Magistrate authorised to certify the correctness of the inventory prepared.

17. In **Girish Vs. State of Kerala 2023 (7) KHC 435** it is held that the

absence of impression of specimen seal in the mahazar, property list and non disclosure of the name of police officer in the forwarding note and delay in producing the sample before the Chemical Examiner's Laboratory are the circumstances, to doubt the identity of the sample drawn and sample sent for chemical analysis.

18. In **Prabhu Prakash vs. State of Kerala [2025 KHC online 1063]**, the Hon'ble High Court held that prosecution has obligation to prove that contraband substance allegedly seized from the accused eventually reached to chemical examiner's laboratory in a tamper proof condition and must prove the chain of custody from place of occurrence up to production before the chemical examiner's laboratory. It is also held that mandate of Section 53A Abkari Act must be complied with in letter and spirit, violation of which vitiates entire prosecution case.

19. It is seen from the evidence that the property list (Ext.P7) does not contain the specimen seal impression affixed in the sample bottle. The delay in producing the sample before the court and its safe custody till that time remains unexplained. The officer who forwarded the sample to the laboratory was not examined for proving the tamper proof despatch of the sample. It could not be explained that Tahsildar is the Executive Magistrate authorised to certify the correctness of the inventory prepared. Prosecution failed to prove the chain of custody of sample from its drawing till it is reached to the laboratory for chemical analysis. These facts are fatal to the prosecution case. This point is

found against the prosecution.

20. Point No. (ii):- In the light of the finding on point No. (i), the accused is found not guilty of the offence punishable U/s. 58 of the Act and he is acquitted thereunder U/s. 235(1) of Cr.P.C. His bail bond stands cancelled and he is set at liberty.

Dictated to the Confidential Assistant, typed by her, corrected and pronounced by me in open court, this the 2nd day of June 2026.

Sd/-

ASSISTANT SESSIONS JUDGE

APPENDIX OF EVIDENCE

FORM 62

List of Prosecution/Defence/Court Witnesses
(Rule 134 Criminal Rules of Practice, Kerala)

A. Prosecution Witness

Rank	Name	Whether Eye Witness, Police Witness Expert Witness, Medical Witness, Other Witness
PW1/CW1	Joy Joseph	Official Witness
PW2/CW7	Rinosh R	Official Witness

B. Defence Witness : Nil

C. Court Witness : Nil

List of Prosecution/Defence/Court Exhibits

A. Prosecution Exhibits

Sl.No	Exhibit Number	Date	Description
1	P1/PW1	25.09.2020	Seizure Mahazar
2	P2/PW1	25.09.2020	Specimen Seal Impression
3	P3/PW2	17.01.2023	Scene Mahazar
4	P4/PW2	17.01.2023	Eye Sketch
5	P5/PW2	26.03.2021	Chemical Report
6	P6/PW2	25.09.2020	Crime and Occurrence Report
7	P7/PW2	25.09.2020	Property List
8	P8/PW2	25.09.2020	Forwarding Note
9	P9/PW2 (Series)	02.07.2021	Inventory Report

B. Defence Exhibits : Nil

MOS MARKED : Nil

MOS UNMARKED : Nil

Sd/-

ASSISTANT SESSIONS JUDGE

// True Copy//

ASSISTANT SESSIONS JUDGE

Fair/Copy of Judgment in S.C.458/2023

Dated: 02.06.2026

**IN THE COURT OF SESSION,
KASARAGOD DIVISION**

Sessions Case No. 458/2023

Date of Judgment: 02.06.2026

To

1. The Additional Public Prosecutor,
Kasaragod.
2. DCMS