IN THE COURT OF SESSIONS, PALAKKAD DIVISION
Present : Shri.D.Sudheer David, Additional Sessions Judge-II

Thursday, the 26th day of March, 2026
5th day of Chaithra, 1948 S.E

SESSIONS CASE No. 953/2019

(Crime No. 06/2019 of Excise Range Office, Chittur)

Complainant	:	State of Kerala, Rep. by the Excise Circle Inspector, Excise Range Office, Chittur By Adv. Shri. Sreenath Venu, Addl. Special Public Prosecutor, Palakkad
Accused	:	1. Mujeeb Rahman (Spilt Up) 2. Vimal,aged 24/2019, S/o Parameswaran Pilla, Vishnu Bhavanam Veettil, Aadinadu Village, Karunagapally Taluk, Kollam District. A2 by Shri.T.P.O.Akbar Ali
Charge Under Section	:	Under Section 20(b) (ii) (B) & 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985.
Plea of the accused	:	Not guilty
Finding and Sentence	:	The second accused to undergo Rigorous Imprisonment for 5 year and to pay an amount of ₹1,00,000/- (Rupees one lakh only) for the offence under Section 20(b)(ii) B of NDPS Act, in default of payment, to undergo Rigorous Imprisonment for 1 month more and to undergo Rigorous Imprisonment for 5 years and to pay an amount of ₹1,00,000/- (Rupees one lakh only) for the offence under Section 29 of NDPS Act, in default of payment, to undergo Rigorous Imprisonment for 1 month more.

Both substantive sentences shall run concurrently.

Second accused is entitled get set off under section 468 BNSS.

Case against the first accused is split up.

Description of the accused :

Name	Father's Name	Occupation	Age	Residence
Mujeeb Rahman	--	--	--	(Spilt UP)
Vimal	Parameswaran Pilla	--	24/2019	Vishnu Bhavanam Veettil, Aadinadu Village, Karunagapally Taluk, Kollam District.

DATE OF :

Occurrence	:	11.02.2019
Complaint	:	10.10.2019
Apprehension	:	11.02.2019 24.10.2025 25.03.2026
Release on bail	:	16.04.2019 25.10.2025
Commitment	:	23..01.2020
Commencement of trial	:	10.12.2025
Close of trial	:	18.03.2026
Sentence	:	26.03.2026

This case has been finally heard on 18.03.2026 and this court on 26.03.2026 delivered the following.

JUDGMENT

This is a case based on the Complaint filed by Excise Inspector Chittur against first and second accused alleging offence u/s 20 (b) (ii) B and 29 of Narcotic Drugs and Psychotropic Substance Act 1985. (hereinafter referred to in short as ‘the N.D.P.S Act’.)

2. The case of the prosecution in brief is that, first and second accused were found jointly possessing 2.200 kilograms, in furtherance of their common resolve while travelling in the bus of Tamil Nadu State Transport Corporation, bearing number TN 39 0252 from Pollachi to Palakkad on the evening of 11.2.2019 at 5:30 PM and caught red handed at Gopalapuram old sales tax check post, and thereby committed the offence under Section 20(b)(ii) B and 29 of NDPS Act.

3. On detecting the offence, a case was duly registered after complying with the initial formalities and on the investigation that followed a final report was filed, upon which cognizance under Section 20 (b) (ii) B and 29 of NDPS Act was taken and process issued to the first and second accused, in which they appeared. Both were enlarged on bail in the crime stage, upon which they were allowed to continue in this proceeding.

4. Thereafter, learned Special Public Prosecutor opened up his case by describing the charge levelled against the first and second accused and stating the evidences he proposed to prove their guilt. Basing on that and the other prosecution records and hearing both sides, it is satisfied that there are grounds to presume that first and second accused had jointly committed an offence, which is triable by this Court.

While so, the first accused absconded and the case against him, split up trial proceeded against the second accused. Accordingly charge against the second accused under Section 20 (b) (ii) B and 29 of NDPS Act was framed, read over and explained to them, to which they pleaded not guilty and claimed to be tried.

5. Thereafter, prosecution examined PW1 to PW3 and marked Exts. P1 to P24, P5 and 14 series and MO1 Series and 2.

6. On the closure of the prosecution evidence second accused were questioned u/s 351(i) (b) BNSS, by putting forth all the incriminating circumstances appearing in the evidence of the witnesses, in which he would deny the entire case and pleaded that he was the person who was wearing the brown shirt but he did not have a bag with him. He was in possession of one ticket only. It is a false case.

7. Thereafter, on hearing the prosecution and defence under section 255 BNSS it was found to be not a case of 'no evidence' and hence the trial proceeded with by calling upon the second accused to enter into his defence by adducing evidence, but they did not adduce any evidence.

8. Heard both sides.

9. The points raised for consideration are: -

1) Whether the second accused jointly with the first accused jointly possessed 2.200 kilograms, in furtherance of their common resolve, while travelling in the bus of Tamil Nadu State Transport Corporation, bearing number TN 39 0252 from Pollachi to Palakkad on the evening of 11.2.2019 at 5:30 P.M., as alleged?

2) Sentence and Order?

10. **<u>Point No.1</u>**:- It is the case of the prosecution that second accused jointly with the first accused jointly possessed 2.200 kilograms, in furtherance of their common resolve, while travelling in the bus of Tamil Nadu State Transport Corporation, bearing number TN 39 0252 from Pollachi to Palakkad on the evening of 11.2.2019 at 5:30 PM. In proof thereof, it tried to take support from the 3 witnesses examined, all of whom deposed in tune with their respective points.

11. Among the witnesses PW1 is the detecting officer. According to him, on 11.2.2019 while he was working as Excise Inspector Chittur Excise Range, he along with his party was doing duty in his department jeep and in course, conducted vehicle checking duty at Gopalapuram in front of old sales tax check post. While so, at 4:40 PM a bus of Tamil Nadu State Transport Corporation arrived and he stopped and tried to enter in to it through its front door. At that time, he found two persons, one of them wearing a blue jeans and white T-shirt and other wearing a brown shirt and blue jeans, getting out of the bus through its back door and walking away. He noticed that one who was wearing white T-shirt was holding a shoulder bag. He abruptly approached them and stopped them and asked about the contents of the bag in the presence of the witnesses present over there. But they did not give any answer, instead got perplexed. So, he took possession of the bag and inspected the same and found inside a packet with the brown paper, wrapped with cellotape. He opened it up and found inside dried parts of a plant packed in newspaper. He took a small quantity of it and inspected the same by smelling after crushing it and realized it to be ganja. He convinced the same the members of his team

and also the witnesses present over there. Then he enquired the whereabouts of the duo, and the person who was wearing white T-shirt stated him to be Mujeeb Rahman, son of Akbar hailing from Malappuram District and other one wearing brown shirt is a native of Kollam District, whose name is Vimal son of Parameshwaran Pilla. He identified the said Vimal as the second accused in this case. (first accused is absconding).

12. In the cross examination, effort was made to challenge the scene of detection by asking questions to PW1 with respect to the bus in which accused persons allegedly came. His answers were in the negative, that he did not collect materials with respect to that bus in order to show that accused persons were travelling in that bus. He did not collect the trip sheet of it. He did not collect any records from the conductor and driver of that bus in order to show that it serviced through that spot on that particular day. So also, he would admit that he did not state the destination of that bus service in any of the records prepared in the spot.

13. However, PW1 would state that he did not note the details of the bus because the detection was not done inside it. No doubt it is available excuse as the bus did not get directly involved in the detection of the contraband from the accused persons, as they were caught from outside the bus, when got out of it and walked away, as per the case of the prosecution. The evidence of PW1 is categorical on that aspect, making it to find that the bus is not directly involved in the matter of detection of the contraband from the accused persons. So, the non-collecting of materials concerning the bus cannot be viewed with suspicion, as tried to be projected by the learned Counsel for the accused in the cross examination.

14. In this regard, it is a matter to be considered that the second accused would categorically admit in his questioning under Section 351 of the BNSS that he was travelling in the bus along with the first accused, as his answer to the deposition of PW1 that, he saw a person wearing a blue jeans and white T-shirt and another wearing a brown shirt and blue jeans were alighting from the bus through its back door and walking away, was that it was he who was wearing that brown shirt, but no ganja was recovered from him. In the additional statement he made in the conclusion of the questioning he would reiterate that statement with an addition that, there was no bag with him and he was in possession of his bus ticket only.

15. Law permits to look into the statements given by an accused in his questioning under section 351 of BNSS as a material to find on the genuineness of the prosecution case. [**Ashok Debbarma @ Ashok Debbarma v. State of Tripura (2014 KHC 4147)**]. So, the answer given by the second accused with respect to his presence in the bus and his being one among the persons tried to get off the bus in that particular spot, wearing blue shirt, as identified by PW1, can be taken to corroborate that part of the evidence of PW1 that second accused is one among the two persons tried to get out of the bus and to escape there from in the company of the first accused. This makes me to ignore the absence of materials regarding the bus in this case.

16. It is seen, the above evidence of PW1 gets added strength from the evidence of PW2, the officer who accompanied PW1 in detecting the offence. He is specific as to the patrol duty conducted by PW1, in which he was a member and the vehicle checking that was done at Gopalapuram in front of old sale tax check post and PW1 stopping the

bus of Tamil Nadu state Transport Corporation, having number TN 39 0252 and the accused persons coming out of the bus with the first accused holding a bag through its back door, when PW1 tried to enter into it through its front door, and trying to walk away to avoid checking. He specified that PW1 checked their bag in the presence of the witnesses present over there and found out a packet covered with brown paper, pasted with cellotape and found inside it ganja packed in newspaper. He would categorically state the names of the first and second accused, and identified the latter in court.

17. In the cross examination, PW2 would specify that the bus was servicing from Pollachi to Palakkad. According to him, the patroling team was travelling in the official jeep and they reached the spot at 3:15 PM and started vehicle check from 3:45 PM. Questions were asked to challenge his presence in the place of detection, whether he had given his duty notebook to the investigating officer to show that he had attended the vehicle checking duty on that day in that spot and he answered in the affirmative. But his notebook is not produced by the prosecution in this case. However, it is seen that, he is a signatory in Ext. P3 seizure mahazer, which is a record contemporaneously prepared with the detection of the contraband, which I feel, would establish his presence in the place of detection.

18. No other significant aspects were brought out in the cross examination of PW2 to doubt the crux of his narration that, PW1 and conducted vehicle checking duty at Gopalapuram, opposite to sale tax check post, in course of their patrol duty and he stopping the bus of Tamil Nadu State Transport Corporation and intercepting the accused persons, who tried to escape by getting off the bus through its back door with a bag and

searching out ganja from it. It makes me to accept his evidence, which provides perfect corroboration to the evidence of PW1 on that aspect.

19. All these aspects make me to accept that part of the case of the prosecution that PW1 stopped the bus of Tamil Nadu State Transport Corporation at Gopalapuram, opposite old sales tax check post for the purpose of checking it and at that time second accused along with the first accused tried to escape from it, by getting off it through its back door and walking away to avoid checking by PW1 and team.

20. The evidence of PW1 runs further to the effect that, he, then, weighed the ganja in the electronic weighing machine taken from his vehicle and found it to have a weight of 2.2 kilograms. Then he packed the ganja in a polythene cover and sealed its opening by melting and wrapped it in brown paper and labelled it with the label, that contains the signatures of himself, the witnesses, and also the first and second accused and affixed seal in it. He gave it the marking P1. He also packed the brown paper and newspaper, with which the ganja was packed by the accused persons in another brown paper and labelled it in the same manner and affixed sealed in it. He gave it the marking P2. He folded the bag in which the ganja was carried by the accused persons and tied it and affixed label in it, giving it the marking P3. He prepared seizure mahazer stating all the aspects, which contains his personal seal having the impression ‘RV’, that he affixed in the labels. He has proved it as Ext. P3.

21. Nothing significant could be brought out in the cross examination of PW1 with respect to the weighing, packing, labelling and the sealing of the contraband. Questions were asked with respect to the weighing machine and he would admit that he

did not state the details of it in the seizure mahazer. However, it is a fact that the weighing machine was taken from his official jeep, meaning thereby, it is an official device, making it to presume on its working condition. So also, he was confronted with a question that, there is no specific material to show that the ganja alone was weighed and the weight of 2.2 kilograms is the actual weight of it. To which his answer is that 2.2 kilograms is the weight of the ganja and it is so stated in the records. Here it is to be noted that, none of the records concerning the ganja, states that 2.2 kilograms is the weight of the ganja with its packing. It makes me it to accept that answer given by PW1 on that 2.2 kilograms is the weight of the ganja.

22. It is seen, the evidence of PW1 with respect to the weighing, packing, labelling and the sealing of the contraband, gets corroboration from the recital in Ext. P3 seizure mahazer. So also, the evidence of PW2 gives support to his narrative in that matter, as according to PW2 the ganja was weighed in the weighing machine taken from the official vehicle and found it to have 2.200 kilograms and that PW1 packed it and the packaging materials of the ganja and also the bag in which the ganja was carried by accused persons in the spot. He specified the manner of packing made with respect to those materials, which are seen to be tallying with the description given by PW1. According to him, the packets of the materials were given the marking P1 to P3. He would categorically state that the labels in the packing were affixed with the personal seal of PW1, that has the impression ‘RV’.

23. In the cross examination, PW2 stood by his narrative, specifying that it was a digital weighing machine that was used for weighing the ganja and it was taken from

their vehicle. But he would admit that he does not know the name of the device and he did not give statement regarding the details of it. However, he would state that the ganja was weighed after taking it in a polythene cover, but the weight of the polythene cover was not taken.

24. Here it is looking into Ext. P14 series of photographs, in which the ganja taken in polythene cover can be seen. It is an ordinary polythene cover, the weight of which cannot exceed 10 or 20 grams, when viewed in the ordinary course of natural events. Nothing is there to find it otherwise. So, the fact that the ganja was weighed with the polythene cover and the weight of the cover is not taken, cannot substantially change the weight of the ganja stated by the prosecution as 2.200 kilogram, which is assertively deposed by PWs 1 and 2. So I am of the considered view to accept the case of the prosecution that it was 2.200 kilograms that was seized from the accused persons, ignoring the fact that the polythene cover in which it was packed was not separately weighed.

25. It is seen, PW1 could identify the packed materials taken into custody from the spot, which are MO1 series of the packing materials, together with its Ext. P4 label and MO2 bag. It necessarily gives support to his narrative regarding the packing labelling and sealing of the contraband, especially when you seem to be receiving corroboration from the evidence of PW2, who also would identify MO1 series and MO2 bag in the court, which stands not discredited.

26. Cumulative effect of all these aspects makes me to record a positive finding with respect to the weighing, packing, labelling and the sealing of the contraband seized from the accused persons, giving an upward surge to the prosecution case.

27. Then, with respect to the post detection procedures, PW1 deposed that, he arrested the first and second accused and prepared arrest memos, of which the one pertaining to the first accused, he proved as Ext. P1 and the one pertaining to the second accused as Ext. P2. He gave intimation of the arrest of the accused persons to their common friend, Babu John, the written record of which he proved as Exts. P7 and 8 respectively. Thereafter, he took the accused persons to the Excise office along with the contraband and records prepared, where he prepared Ext. P6 Crime and Occurrence Report. He prepared remand report and produced the accused before the court. He also has prepared remand report, which he proved as Ext. P9. He also has prepared property list and produced the properties seized before the court. He has proved the property list as Ext. P10.

28. Analysing the above evidence of PW1, it is seen the records prepared in relation with it provides corroboration to it. Ext. P1 and P2 arrest memos pertaining to the first and the second accused shows it to have their signatures and thumb impressions, which, I feel, surges its credibility. Second accused has no explanation as to his signature and thumb impression seen in Ext. P2 arrest memo, making it to find that it was he who put it at the time when he was arrested from the spot.

29. So also Ext. P6 Crime and Occurrence report shows that it was received by the jurisdictional Magistrate on 11.2.2019, as per the dated signature and endorsement

made by the Magistrate himself in it. Exts. P9 remand report and Ext. P10 property list are also seen by the Magistrate on that day, as per the endorsements made by the Magistrate in those records. Accused did not object these records, making it to find as to be prompt production of those records along with the accused and the property seized before the jurisdictional Magistrate on the date of detection itself, which provided strength to the prosecution case put forth against the accused person.

30. Next is the inventory proceeding. The evidence of PW1 on that aspect runs to the effect that, he submitted inventory application for inventory proceedings for taking samples and photographs of the inventory proceedings, which he proved as Ext.P11. He also submitted Ext. P12 inventory list along with it. Based on that, he appeared before the court and took 2 samples of 25 grams each and packed it by putting it in polythene covers and sealing its opening by melting and wrapping it in brown paper and fixing label in it. He gave the samples the marking S1 and S2. He submitted list of samples before the court, which he proved as Exhibit P13. It contains the signatures and seal of himself and the Magistrate. Photographs of the inventory proceedings were also taken, which he proved as Exhibit P14 series. He has identified the packing of ganja taken from the scene from one of the photographs. The Magistrate has given separate certification with respect to the inventory proceedings, which he proved as Exhibit P15. He has produced the specimen impression, of case, signature and seal in the court separately, which he proved as Ext. P16.

31. On going through the records of inventory, Exbt. P12 inventory list shows the description of the packet of ganja submitted for inventory proceedings, which reads

“2.200 kilograms of dried Ganja packaging polythene cover, the opening of which was sealed by melting and wrapped it in brown paper and affixed label and seal in it, that is given the marking P1”. It is perfectly with the description of the packing of the contraband made in Ext. P10 property list. It is seen, P15 certification of the Magistrate narrates the production of the packed ganja and packed packing materials of the ganja before her, which was tallying with the inventory list, which is Ext. P12. It further states about the taking of two representative samples of 25 grams each from the contraband, with an assertion as to its genuineness and correctness. It also endorsed the untampered production of the packed contraband before her, without noticing any sort of tampering in it.

32. It is seen the inventory proceedings were initiated on 13.2.2019, as evidence by Exbt. P15 certification of the Magistrate, which is the 3rd day of the date of detection. But there is no reason to find any sort of suspicion, as it could be the date given by the Magistrate to initiate inventory proceedings according to her convenience. PW1, hence, could not have any say on it. However, the packed contraband was produced before the Magistrate on the date of detection itself, as evidence by the endorsement of the Magistrate in Ext. P10 property list. True that the properties were returned back by the Magistrate on that day to PW1 for producing on the next working day, but there is no clear evidence as to his producing it on the next working day in compliance of that orders. However, it is a fact that the contraband was found to be intact in all respects with its label and seal in place, as per the endorsement of the Magistrate made in Ext. P15 certification. It is sufficient to show that the contraband was in an untampered state,

which guarantee its genuineness. It makes insignificant the absence of clearcut evidence as to the return back of the contraband to the court after it was returned back by the Magistrate to PW1 on 11.2.2019. In all other respects, the inventory proceedings appear to be perfect, without any reason to suspect it.

33. Needless to say, Exbt. P15 certification of the Magistrate given with respect to the inventory proceedings exhorts the correctness of the that proceeding, that includes the intact state of the packing of contraband produced before him for the purpose of inventory proceeding and also the taking of samples and its photographs. It guarantees the genuineness of the contrabands that were produced before the Magistrate for the purpose of inventory proceedings. It stands supported by Exbt. P14 series of photographs, which contained the picture of the ganja packed from the spot, wrapped with brown paper tied with twine and affixed with the label and seal. Cumulative effect of these aspects makes me to record a positive finding that there is due compliance of the provisions of Section 52A of the NDPS Act, making the inventory proceedings to be taken as primary evidence in respect of the offence levelled against the accused persons in connection with the contrabands.

34. Continuing with the evidence of PW1, he deposed that, thereafter the residue ganja, after taking samples were sent to AR Camp Kozhikode as per the proceedings of the District Court. He has proved it as Exhibit P17. He also has proved the receipt under which the residue ganja was received at AR Camp Kozhikode, which is Ext. P18. Thereafter he prepared forwarding note for sending the sample to chemical lab. He

has proved it as Exhibit P19. It contains his signature and the specimen impression of his personal seal and also the seal of the Magistrate court.

35. It is proved through Exbt. P19 forwarding note that the very same samples taken in the presence of the Magistrate were sent to chemical lab, as seen from the description of the sample given in it tallies with the description in Exbt. P13 sample list, except the fact that it is stated in English. The covering letter attached to that record state its date 3.4.2019. It contains an endorsement of the Excise official taking the samples from the court for producing before the chemical lab. Exbt. P24 chemical analysis report, proved through the investigating officer PW3, would state that the samples reached the chemical lab on 4.4.2019, which is the next day of the date in Ext. P19 forwarding note, which cannot be found as a delayed production of the samples before the chemical lab. So also, it is seen Ext. P24 chemical analysis report contains statement that the sample received in the chemical lab were in intact state, under proper packing and sealing. It guarantees the genuineness of the samples produced before the chemical lab for analysis.

36. In this regard, it is seen that, Exbt. P24 certificate of the chemical lab categorically states that the samples sent for analysis tested ganja. Accused persons have no explanation to these evidences, which makes no chance other than record a positive finding that the contraband that was seized from him is ganja.

37. With respect to the compliance of Section 57 of the NDPS Act, the evidence of PW1 runs to the fact that, he prepared report under Section 57 of the NDPS Act and sent to his immediate superior officer, Excise Circle Inspector Chittur. It was received by him, as evidenced by his signature therein, he has proved it as Exhibit P20.

38. On a perusal of Ext. P20 record, it is seen to be received by the immediate superior officer of PW1 on 12.2.2019, with his date signature and designation seal. It is pointed out by the learned counsel for the accused that, that report lacks the details with respect to the detection of the contraband and registration of the crime against accused. But it is seen from Ext. P16 that along with that copies of seizure mahazer, crime and occurrence report and Form F were also given to the immediate superior officer of PW1. It necessarily gives complete information regarding the detection of the crime and the subsequent proceedings taken on it. It can be formed to be substantial compliance of the requirements of Section 57 of NDPS Act. It makes me to accept that report and to find in favour of the compliance of that requirement of law in this case.

39. All the above discussed evidence gives positive proof to the prosecution case that second accused jointly with the first accused jointly possessed 2.200 kilograms, in furtherance of their common resolve, while travelling in the bus of Tamil Nadu State Transport Corporation, bearing number TN 39 0252 from Pollachi to Palakkad on the evening of 11.2.2019 at 5:30 P.M.. It necessarily attracts the presumption under section 54 of the NDPS. Act, which the first accused is unable to rebut.

40. So also, there is sufficient to prove the element of conspiracy as against the first and second accused, for it stand proved that they jointly travelled in the bus of Tamil Nadu State Transport Corporation and they jointly tried to get off from it, when PW1 stopped it and tried to enter into it through its front door for conducting checking, with the first accused carrying the bag with him, from which the contraband was seized thereafter and they jointly tried to walk away to escape the check of PW1 and his team.

41. Significantly, the accused would admit his presence in that bus and more particularly, in the company of the first accused, when the evidence of PW1 was put to him, that two persons, one wearing a blue jeans and white T-shirt and another wearing brown shirt and blue jeans tried to get off from the bus through its back door with one among them carrying the bag, in the questioning under Section 351 of BNSS, he would answer that it was he who was wearing that brown shirt. It necessarily proves that he was in action with the first accused, to escape from the bus in order to avoid the checking of PW1 and his team inside the bus. It makes out the sense that he was acting in conjunction with the first accused in the matter of possession of the ganja kept in the bag carried by the former, that they both knew to be an offensive article that would expose them to criminal liability. It could be to avoid from being caught for that criminal liability they both tried to escape from the bus by getting off it jointly, with the first accused taking that bag with him. It necessarily establishes their meeting of mind in the matter of possessing the contraband and screening it off from the possible detection that may be done by PW1 and his team.

42. No doubt, it by itself proves the element of conspiracy the first and second accused hatched in possessing the contraband, making them liable for the offence of Section 29 of NDPS Act, with which also the second accused was charged. Honourable High Court reported in **Ismail and others V. State of Kerala (1991 KHC 21)**, which ruled on the proof of conspiracy in the matter of possessing the contraband. It reads, ***"proof required for conspiracy could be by way of inference from proved circumstances"***.

43. Basing on this principle of law, it can be found that all the proved circumstances in this case lead to the inference that second accused jointly with the first accused possessed 2.200 kilograms of ganja, in furtherance of their common resolve, while travelling in the bus of Tamil Nadu State Transport Corporation, bearing number TN 39 0252, from Pollachi to Palakkad on the evening of 11.2.2019 at 5:30 P.M.. It gives no chance other than to find the second accused guilty of the offence under Sections 20(b)(ii) B and 29 of NDPS Act.

44. Here it is to be looked into that prosecution, put forth yet another piece of evidence, which is Ext. P5 ticket of the bus of Tamil Nadu State Transport Corporation and its photocopy, marked as Ext. P5(a). According to PW1 it is a ticket found in the possession of the second accused. He took it into custody and produced before the court in Form 15 Criminal Rules of Practice, which is Ext. P21. Thereafter, he entertained a doubt as to the chance of its contents getting obliterated by the passage of time, so he took a photo copy of it. Prosecution got it marked as Ext. P5(a). Prosecution put forth the contention that this bus ticket could go to show that the second accused and the first accused were travelling jointly in that bus, carrying the contraband, which establishes their jointness in possessing the ganja.

45. On going through Ext. P5 is to be a bit of a blank paper. Ext. P5(a) is seen to be a piece of paper in the shape of Ext. P5, with certain printing in it in Tamil and English. The English contents states the number of the ticket, with the date and time of its issuance, which is 11.2.2019 - 16:14: 52 hrs, which almost tallies with the time of the detection of the offence made by PW1 at Gopalapuram, when considering the running

time of a bus from Pollachi to that place. The place of departure and destination of the bus is stated in it as Pollachi – Palakkad. Below that the fare of it is stated as ₹44.00 = 88.00, meaning thereby it is a ticket issued for the travel of two persons for the fare stage of ₹44/- (Rupees forty four only).

46. The learned counsel for the accused put forth a number of contentions to challenge Ext. P5 and P5(a). According to him, it is not shown anywhere in the prosecution records how it was taken possession by PW1, as PW1 has no case that he conducted body search of the second accused, in which he got that ticket. According to the learned counsel, it casts doubts with respect to that bus ticket, especially when the original of it is not visible and there is only a photocopy, which PW1 claims to be that of the original, but without any proof for the same.

47. It is true that Ext. P5 bus ticket was not searched out from the body of the second accused by PW1. According to him, second accused himself had handover it to him, that made him to take it into custody. It is seen specifically stated in Ext. P3 seizure mahazer that is a bus ticket was taken out from the pocket of the shirt of the second accused. It supports the evidence of PW1 regarding that bus ticket and it being found out from the possession of the second accused.

48. But it is a fact that it was not searched out in the body search conducted on the second accused in accordance with Section 50 of NDPS Act. As a matter of fact, PW1 would state that he did not conduct body search of the accused persons under that provision of law. Laying firm grip on it, learned counsel for the accused depict Ext. P5 bus ticket as a fake record planted by PW1 for the purpose of this case.

49. However the second accused, when gave additional statement in his questioning under section 351 of BNSS would admit that he was in possession of a bus ticket, but with an addition that it was his ticket only. It can be taken to find that second accused admit him to had been in possession of a bus ticket at the time of detection and the only challenge is with respect to the identity of it, whether it is a ticket of a single passenger, or it is Ext. P5 (P5(a) ticket admitting two passengers. It otherwise rules out the chance of PW1 creating such a ticket in the spot of detection for the purpose of planting it in this case to impute the second accused along with the first accused.

50. Here it is relevant to look into the statement of the second accused in his 351 BNSS statement that the ticket that was in his possession was one for the journey of him alone, which is a special fact that he could have brought out by calling for the counter foil of that ticket or other records concerning it from Tamil Nadu State Transport Corporation. It is a vital aspect as far as his defence is concerned. An ordinary prudent man would definitely have brought out that evidence in order to prove his innocence, when viewed in the ordinary course of natural events. But he did not to bring in that evidence, for which he has no explanation. It necessarily has to invite adverse inference against him, especially when prosecution brought out Ext. P5 ticket and its Ext. P5(a) copy.

51. In this regard, I feel there is nothing to doubt Ext. P5(a) copy of the bus ticket, for it is written in Ext. P3 seizure mahazer that a bus ticket was as taken from the possession of the second accused at the place of detection, specifying the departure and destination points of the service of that bus and the fare of it, namely, ₹88/- (Rupees

eighty eight only), which is exactly the one seen printed in Ext. P5(a) copy of the ticket. So, I am of the considered view to find that Ext. P5(a) is the copy of Ext. P5 original bus ticket, the contents of which happened to get obliterated by the passage of time.

52. Needless to say, Ext. P5 bus ticket together with its Ext. P5(a) copy is a material evidence, that support the above stated finding of the jointness of the second accused with the first accused in possessing the ganja by the first accused carrying it in the bus of Tamil Nadu State Transport Corporation. It establishes the conspiracy they hatched in the matter of their possession of the contraband.

53. Based on the above discussion, it is concluded that prosecution succeed in proving that second accused jointly with the first accused jointly possessed 2.200 kilograms, in furtherance of their common resolve, while travelling in the bus of Tamil Nadu State Transport Corporation, bearing number TN 39 0252 from Pollachi to Palakkad on the evening of 11.2.2019 at 5:30 PM, making the second accused liable to be convicted the offences under Section 20(b) (ii) B and 29 of NDPS Act.

54. **Point No. 2:-** In the result, second accused is found guilty for the offence under section 20 (b) (ii) B and 29 of NDPS Act and accordingly, he is convicted for that offences hereunder. Point is answered in favour of the prosecution. Case against the first accused is split up.

Prepared in Google docs voice typing app and corrected by me and pronounced in the open court on 25th day of March 2026.

Sd/-
Additional Sessions Judge-II

55. Now remains the question of sentence. Second accused is heard on the question of sentence. He would plead that he has aged parents and he is the only person to look after them. His learned counsel argued for showing leniency in sentencing them, finding that they are the only persons to look after their respective families. He would point out further that they have no criminal antecedents. The learned Special Public Prosecutor would canvass for imposing the maximum punishment because of the heinous nature of the crime he has committed. He would point out that accused has criminal antecedents, as he got involved in many other cases, including NDPS cases. He has produced a list of crimes registered against him, along with the copies of the Fist Information Reports filed in those cases. They are: -

Alapuzha South Police Station Crime 83/2020 u/s 20(b) (ii) B of NDPS Act, Karunagapally Police Station Crime 128/2022 u/s 27 of NDPS Act, Karunagapally Police Station Crime 8/2023 u/s 279 IPC and 185 of M.V Act and Karunagapally Police Station Crime 1494/2025 u/s 15[c] of Abkari Act.

56. Accused was heard about these cases and he would admit the registration of all these cases against him. According to him, trial in Alapuzha South Police Station Crime 83/2020 u/s 20(b) (ii) B of NDPS Act is about to start.

57. This is a case where second accused jointly with the first accused jointly possessed 2.200 kilograms, in furtherance of the conspiracy they hatched, while travelling in the bus of Tamil Nadu State Transport Corporation from TamilNadu to Kerala. It is an intermediate quantity that is seized from them. It is a serious offence, the impact of which

would be devastating, particularly upon youngsters, both college and school going students. It not only would ruin them but also shatters their families who look upon them with great expectation as to be the protector of their families as a whole in future. It cannot be said that the second accused and the first accused brought it from Tamil Nadu to Kerala unknowing of the lethal consequence of it.

58. It is an admitted fact that he has criminal antecedence, as he is facing trial in connection with the possession of ganja in the crime registered at Alapuzha South Police Station Crime 83/2020 u/s 20(b) (ii) B of NDPS Act. It is necessarily an aggravating circumstance. So I am of the considered view that accused has to be dealt with seriously.

59. Accordingly, I sentence the second accused to undergo Rigorous Imprisonment for 5 year and to pay an amount of ₹1,00,000/- (Rupees one lakh only) for the offence under Section 20(b)(ii) B of NDPS Act, in default of payment, to undergo Rigorous Imprisonment for 1 month more.

60. I sentence him to undergo Rigorous Imprisonment for 5 years and to pay an amount of ₹1,00,000/- (Rupees one lakh only) for the offence under Section 29 of NDPS Act, in default of payment, to undergo Rigorous Imprisonment for 1 month more.

61. Both substantive sentences shall run concurrently.

62. Second accused is entitled get set off under section 468 BNSS.

63. Case against the first accused is split up.

64. MOs are ordered to be preserved for the purpose of the trial of the first accused.

Prepared in Google docs voice typing app and corrected by me and pronounced in the open court on 26th day of March 2026.

Sd/-
Additional Sessions Judge-II

APPENDIX

List of Prosecution/Defence/Court Witness

A. Prosecution Witness :-

Rank	Name	Date	Whether Eye witness, Police Witness, Excise Witness, Expert Witness, Medical Witness, Other Witness
PW1	V.Rajaneesh,Excise Inspector, Excise Range Office, Chittur.	10.12.2025	Excise Witness
PW2	O. Muhammed Abdul Saleem, Assisstant Excise inspetor, Excise Range Office, Chittur	12.12.2025	Excise Witness
PW3	Sunilkumarapilla, Excise Circle Inspector, Excise Circle Office, Chittur	07.02.2026	Excise Witness

B. Defence Witnesses :- Nil

C. Court Witness:- Nil

List of Prosecution/Defence/Court Exhibits

A. Prosecution Exhibits

Sl No.	Exhibit Number	Date	Description
1	Ext.P1	11.02.2019	Arrest Memo of A1
2	Ext.P2	11.02.2019	Arrest Memo of A2
3	Ext.P3	11.02.2019	Seizure Mahazar
4	Ext.P4	--	Label in MO1
5	Ext.P5	--	Bus Ticket
6	Ext.P5 (a)	--	Copy of Bus Ticket
7.	Ext.P6	11.02.2019	Crime & Occurrence Report
8.	Ext.P7	11.02.2019	Arrest Intimation of A1
9.	Ext.P8	11.02.2019	Arrest Intimation of A2
10.	Ext.P9	11.02.2019	Remand Report
11.	Ext.P10	11.02.2019	Property List
12.	Ext.P11	13.02.2019	Application of Inventory
13.	Ext.P12	--	Inventory List
14.	Ext.P13	--	Sample List
15.	Ext.P14 Series	--	Photographs (Nos.4)
16.	Ext.P15	13.02.2019	Inventory Proceedings
17.	Ext.P16	--	Specimen Seal & Signature
18.	Ext.P17	19.02.2019	Proceedings of Sessions Judge
19.	Ext.P18	20.02.2019	Godown Receipt
20.	Ext.P19	03.04.2019	Forwarding Note
21.	Ext.P20	12.02.2019	Section 57 Report
22.	Ext.P21	11.02.2019	Form 15
23.	Ext.P22	09.06. 2019	Scene Mahazar
24.	Ext.P23	09.06. 2019	Scene Plan
25.	Ext.P24	25.01.2022	Chemical Examination Report

B. Defence Exhibits :-Nil

C. Court Exhibits :- Nil

D. Material Objects :-

Sl No.	Material Objects	Description
1	MOI Series	Brown cover & Newspaper
2	MO2	Bag

Sd/-
Additional Sessions Judge- II

Typed by :Jiji.C.
Compared by :Jayasudha.A.
Copy ready on : 26.03.2026

Fair/Copy of Judgment in
S.C.No.953/2019
Dated: 26.03.2026