

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

Tuesday, the 31st day of March, 2026
10th day of Chaithra, 1948 S.E

SESSIONS CASE No. 1018/2019
(Crime No.433/2019 of Town North Police Station,Palakkad)

Complainant	:	State of Kerala, Rep. by the Inspector of Police, Town North Police Station, Palakkad By Adv. Shri. Sreenath Venu, Special Public Prosecutor, Palakkad
Accused	:	Adam, aged 31, S/o Abdulvahab, Thazhethadathil Veedu, Kozhimantha, Chathamangalam, Kozhikode. Advocate by Shri.Ratheesh.R.
Charge Under Section	:	Under Sections 20 (b) (ii) (B) of NDPS Act
Plea of the accused	:	Not guilty
Finding and Sentence	:	The accused 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 20(b)(ii) B of NDPS Act, in default of payment, to undergo Rigorous Imprisonment for 6 months more.

He is entitled to get set off under section

468 of BNSS.

Description of the accused :

Name	Father's Name	Occupation	Age	Residence
Adam	Abdulvahab	--	31	Thazhethadathil Veedu, Kozhimantha, Chathamangalam, Kozhikode.

Date of :

Occurrence	:	06.08.2019
Complaint	:	25.09.2019
Apprehension	:	06.08.2019 & 30.03.2026
Release on bail	:	15.11.2019
Commitment	:	03.02.2020
Commencement of trial	:	18.11.2025
Close of trial	:	28.03.2026
Sentence	:	31.03.2026

This case has been finally heard on 28.03.2026 and this court on 31.03.2026 delivered the following.

JUDGEMENT

This is a case based on the final report filed by Inspector of Police, Town North Police Station, Palakkad, against the accused alleging offence u/s 20 (b) (ii) B of Narcotic Drugs and Psychotropic Substances Act 1985 (hereinafter referred to in short as 'the N.D.P.S Act')

2. The case of the prosecution in brief is that, accused was found possessing 5.040 kilograms of ganja at Kozhikode Bus stop at Olavakode, by the side of Palakkad - Kozhikode main road on the afternoon of 6.8.2019 at 3:15 PM, contravening the provisions of NDPS Act.

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

4. Thereafter learned Special Public Prosecutor opened up his case by describing the charge levelled against the accused and stating the evidences, he proposed to prove his guilt.

5. Thereafter basing on the submission of Special Public Prosecutor and the prosecution records and also after hearing both sides, it is satisfied that there are grounds to presume that accused had committed an offence, which is triable by this Court. Hence, charges against the accused under Section 20 (b) (ii) B of NDPS Act was framed, read over and explained, to which he pleaded not guilty and claimed to be tried.

6. Prosecution, then examined PW1 to PW9 and marked Exts. P1 to P29, P10, 16 and 27 series and MO1 to 3.

7. On the closure of the prosecution evidence accused was questioned u/s 351(i) (b) BNSS, in which he denied all the incriminating circumstances appearing in the evidence of the witnesses and pleaded that on that he is innocent. It is a fabricated case.

8. Thereafter, on hearing the prosecution and defence under section 255 of BNSS it was found to be not a case of 'no evidence' and hence the trial proceeded with by calling upon the accused persons to enter into his defence by adducing evidence and he got examined a witness DW1.

9. Heard both sides.

10. The points raised for consideration are: -

- 1) Whether the accused possessed 5.040 kilograms of ganja at Kozhikode Bus stop at Olavakode, by the side of Palakkad – Kozhikode main road on the afternoon of 6.8.2019 at 3:15 PM, as alleged?
- 2) Sentence and Order?

11. **Point No.1:-** It is the case of the prosecution that accused possessed 5.040 kilograms of ganja at Kozhikode Bus stop at Olavakode, by the side of Palakkad - Kozhikode main road on the afternoon of 6.8.2019 at 3:15 PM. In proof, thereof, it relied on the evidence of 9 witnesses examined, of which all, except PW5 and PW7, deposed in tune with their respective points. PW5 and PW7 turned hostile to it .

12. Among the supporting witnesses, PW1 is the detecting officer. According to him, on 6.8.2019, he was working as Town North Police Station Sub Inspector. On that day he along with party was doing patrol duty. When he reached Olavakode at 3:15 PM, he found and youngster at Kozhikode bus stop wearing a black shirt and holding a bag. He tried to mingle among the passengers. He felt suspicion and got of the jeep along with party. At that time, he tried to escape there from. He and party stopped him and asked his whereabouts, to which answer that he is Adam, son of Wahid hailing from Kunnamangalam Kozhikode. He identified him in the court as the accused. He asked him about his presence over there and of the contents of the bag he was carrying. But he did not give proper answer for it. He did not cooperate his demand to inspect the bag, which cast suspicion on him.

13. Then he (PW1) took possession of that bag from him using force and opened it up and felt strong odor of ganja. He took him near to the bus stop and called two persons from the gathering formed over there and inspected the bag and found it to contain two covers wrapped with cellotape and another cover wrapped with paper and tied with thread. He opened all the covers and found it to have containing leaves, flowers, seeds, and stems of ganja.

14. In the cross examination PW1 would specify that there is only one junction in that place, which is Olavakode junction and that he and his party were coming from southern side, that makes the place of detection in the western side. On going, through Ext. P20 site plan proved through PW6, the Village Officer, the said version of his is seen to be correct as the place of detection is shown to be in the western side of the road running north-south, cutting across Olavakode junction, through which Palakkad - Kozhikode Road also runs, but in east-west direction and the place of detection is noted in the margin of that road. He specified that he noticed the accused, when he reached at Olavakode junction, which also can be found to be a correct statement, as it is seen from Ext. P20 site plan that the place of detection is very much visible from Olavakode junction, making it possible for PW1, who was in that junction in his official jeep to see the place of detection and to notice the accused who was available there. According to him, accused tried to run away from the scene on seeing him and party getting off the jeep, which is seen to be getting corroboration from the recital in Ext. P10 First Information Statement, as it is recorded in it that, accused tried to escape from the scene on seeing him and party getting off the official jeep.

15. Needless to say these aspects of the evidence of PW1 strengthens his narrative with respect to the factors took place, prelude of the detection of the contraband from the accused, making that part of his evidence to be accepted, especially when it is seen to be getting corroboration from the evidence of PW2, the officer who accompanied PW1 in the detection of offence. He deposed the introductory aspects of the detection exactly in tune with the narration of PW1, that they reached Olavakode junction at 3:15 PM, and noticing the accused who was in the Kozhikode bus stop holding a bag and he tried to escape there from, that caused PW1 and team to approach him and inspect the bag he was carrying, and found out three packets from inside it, that emanated the strong smell of ganja.

16. In the cross examination, he (PW2) stood by his narrative, but with a contradictory answer, that the patrolling team was travelling from north to south and that the place of detection was west to them, diametrically opposite to the narrative of PW1 that they were travelling from south to north, at which time the place of detection was in the west side. However, it is clarified in the re-examination by the learned Special Public Prosecutor, as he would name the place from which the team was patrolling towards Olavakode, which is, Chunnambuthara, which is shown in Ext. P20 site plan as a place in the south, making it understand that the petrol team was proceeding from south to north as stated by PW1. In all other respects the evidence of PW2 stands un shattered, making me to accept it. It supports the narrative of PW1, making it to accept that part of the case of the prosecution.

17. PW1 deposed further that, he, then decided to conduct his body search, for which he apprised him of his right to get searched in the presence of a Magistrate or a Gazetted officer and gave written notice of it to him. He answered it in the affirmative, and gave a writing of it in the notice given. He proved that notice as Ext. P1. It contains the signature of himself and the accused. Then he solicited the presence of Excise Circle inspector to serve as Gazetted officer, who came to the scene and he introduced him to the accused and then, he searched the body of the accused and found out a train ticket. He prepared a report to that effect, which he proved as Ext. P2. It contains the signature of himself, the Gazetted officer and the witnesses. He prepared and submitted a report under Section 50 (6) of NDPS Act, which is Ext. P6. It contains the signature of himself and his superior officer who received it.

18. The cross examination made on PW1 on these aspects also did not bring out any significant flaws. He denied the suggestion that Ext. P1 and P2 are forged records. It is seen from Ext. P1 notice that, due intimation of the right to get searched in the presence of a Magistrate or a Gazetted officer is given to the accused, which he understood and answered in the affirmative under his writing and signature. Ext. P2 is seen stated as to the body search conducted on the accused and the factum of not searching out any objectionable articles from his body. It is seen to be signed by the Gazetted officer, who is PW3, who deposed in tune with the narrative of PW1, that he was intimated over phone to witness the body search to be conducted on the accused and he came to the spot and witnessed body search of the accused and that no objection articles was found out from

his body. He identified his signature in Ext. P2 search report. He also denied the suggestion of forgery of Ext. P2 record.

19. However, it is pointed out by the learned counsel for the accused that, Ext P2 search report is conspicuously absent with respect to the case of the prosecution that a train ticket, marked as MO3 was searched out from the body of the accused, which according to him is to cast suspicion on the very prosecution case of body search made on the accused in the presence of PW3. It is true that Ext. P2 does not contain statement regarding the searching out of MO3 from the body of the accused. More significantly PW3 did not state about it. According to him, nothing objectionable was searched out from his body. But PW1 has specified as to the searching out of MO3 train ticket from the body of the accused and when he was asked about the absence of such a recital in Ext. P2 search report, he would admit it, with the explanation that it is recorded in the inspection memo marked as Ext. P4 prepared by him.

20. On a perusal of that record it is seen to be a correct statement. In this regard, it is the unchallenged evidence of PW1 that, Ext. P4 record was also prepared in the spot in connection with the arrest of the accused. It makes it to understand that MO3 train ticket was actually searched out from the body of the accused, but the focus of the body search made on him in the presence of PW3 was to find out objectionable articles and no other legitimate possessions. It may be the reason why MO3 train ticket was not mentioned in MO3 train ticket in Ext. P2 record prepared in connection with that body search. At the same time, it was specifically noted in the body inspection made on the accused in connection with his arrest, which made it to be recorded in Ext. P4 inspection memo.

21. Considering all these aspects, I am of the view that no importance can be given to the non-mentioning of MO3 train ticket in Ext. P2 search report. It is seen, this evidence of PW1 receives perfect support from the evidence of PW2, who deposed about PW1 bringing PW3 to the scene and he witnessing the body search conducted on the accused and searching out no objectional articles. He would specifically state about the finding out of MO3 train ticket from the accused, corroborating the evidence of PW1 on that aspect. According to him, it was he who prepared Ext. P1 notice and he put signature in Ext. P2 search memo. In the cross examination, he would state that he put signature in the bottom of Ext. P1 as the person who prepared it.

22. The cumulative effect of all these evidence PW1 to 3, together with Exts. P 1, 2 and 4 records brings out specific proof to the body search conducted on the accused in compliance of Section 50 of NDPS Act, and the finding out of MO3 train ticket from his possession. It further fortifies the prosecution case.

23. Continuing with the evidence of PW1, he deposed that, then he mixed up the ganja in the three packets and weighed it in the weighing machine brought from the nearby bakery and found it to have a weight of 5.040 kilograms. Then he arrested the accused, intimating him the offence he had done. He prepared Ext. P3 arrest memo. It contains the signatures of himself, the witnesses and also the accused. He prepared inspection memo also, which also contains the signatures of himself, the witnesses and the accused. He proved it as Ext. P4. Then the Gazetted officer left the place.

24. In the cross examination PW1 would depose about the weighing machine used to weighed the ganja and that he wrote the details of it in the records prepared by

him. It is seen to be a correct statement as Ext. P5 seizure mahazer states the number of it as, SL 1755/16. He gave further details with respect to that device, that it works in electricity and battery charge. It was the officer who accompanied him, weighed the ganja. Each packets of the ganja was not weighed separately. The photographs of the process of weighing was not photographed.

25. PW2 fully endorse with this evidence of PW1, as according to him, the weighing machine was brought from the nearby bakery and the ganja was weighed, placing it on the ground and found it to have a weight of 5.040 kilograms. Nothing is asked in the cross examination to discredit this evidence. No doubt this evidence of PW2 provides full support to the evidence of PW1 in the matter of the weighing machine used in this case and the process of weighing of the ganja seized from the accused.

26. Adding to that prosecution examined the owner of the weighing machine, PW4, who would dispose that he is conducting a bakery at Olavakkode in the name and state PCM bakery. On the evening of 6.8.2019 police came to his shop and asked for his weighing machine in connection with seizing of ganja and he gave it to them. Sometimes, after they brought it back to him. It is a weighing machine used in his bakery it has a proper records. In the cross examination, he admitted, he did not give the records of his shop to the police. To a pointed question he would state that he does not remember the date on which calibration of the weighing machine was done.

27. Prosecution clear this part of the evidence of PW8 by examining then District Legal Metrology Senior Inspector, PW8, who deposed it that when she was holding that official post, she verified the weighing machine having number 1755/2016 on 4.2.2019

and issued certificate, wish she proved as Ext. P22. It is an electronic weighing machine having a capacity to weight 30 kilograms. The device belonged to PMC bakery, Ottapalam.

28. In the cross examination, PW8 would state that she inspected the weighing machine at that bakery. The period of the certification is one year. However, she would answer in the affirmative to a suggestion that a weighing machine could become defective within the one year period, but with the clarification that if a defect occurred, the owner could get it verified again. Suggestion was made to the effect that a defective weighing machine would show wrong weight. An example was also asked, if 10 grams is weighed in such a defective weighing machine it could show a weight of 5 kilogram and she answered in the affirmative. Then to a pointed question she would answer that it was a weighing machine workable in electricity.

29. On a perusal of Ext. P22 certificate, it is seen certified that, the weighing machine bearing number 1755/2016, is an electronic balance, weighable of 30 kilograms, and it is re-verified on 4.2.2019. It belonged to PM Babu, who is the owner of PCM bakery, Olavakode.

30. As far as an electronic weighing machine is concerned, it would be workable in electricity and battery charge. PW1 would depose it. Ext. P22 certification would specifically state that weighing machine to be an electronic weighing machine. But, PW8, who made that certification would state in her cross examination that it is workable in electricity only, which is apparently in contradiction with her certification made in Ext. P22. She does not have any explanation to it. As far as the certification she gave under

Ext. P22 is concerned, it is an official act done by her, which carries a presumption of being done regularly. There is absolutely nothing to rebut the same. So it can be found that the weighing machine certified under Ext. P22 is an electronic weighing machine, workable in electric and battery charge. Quite interestingly, PW8 in her examination in chief, she would state it to be an electronic weighing machine. The owner of the device, PW4 also would state it to be an electronic weighing machine.

31. Needless to say, there is overwhelming evidence that the weighing machine certified by PW8 under Ext. P22 certification is an electronic weighing machine, which would work in electricity and battery charge. It makes the answer of PW8 given in the cross examination that it is workable in electricity only a contradictory answer, which can only be found as an erroneous statement on her part, totally against her own certification. Such an erroneous statement cannot be given undue weightage, especially when PW1 who did operate it for the purpose of this case has specifically stated it to be workable in electric and battery charge. So I ignore that part of the statement of PW8 made in the cross examination that the weighing machine, she certified as an electronic weighing machine, is workable only in electricity.

32. In this regard it is to be noted that no significant challenge is made to the certification give by PW8 with respect to the weighing machine owned by PW4. It is an official act done by PW8, which can be found to have done regularly, as found above. The certification asserts as to the re-verification of the device made on 04.02.2019, making it to find that this device was in a good working condition at that time. It, hence, has to be presumed to be in that working condition till the next date of verification, for it is not

shown that it went out of order and started malfunctioning with in that time. There is absolutely no iota of evidence to show that they said weighing machine went out of order after it was certified under Ext. P22 by PW8. So I am of the considered to view to find that the weighing machine used by PW1 in this case was in a perfect working condition, without any defect as certified by PW8 under Ext. P22.

33. It is true that, PW8 conceded to the suggestions made by the accused that a verified weighing machine could go out of order within a period of one year and that such a defective machine could show wrong weight, such as, if 10 g is weighed could show 5 kilograms. But it is only a hypothetical question, which cannot put against the weighing machine of PW4 used in this case, especially when no iota of evidence produced to show that that weighing machine was in such a defective state at the time of using it for the purpose of this case. So ignore that particular answers of PW8 made in support of the suggestions given by the accused. So also, I accept Ext. P22 certificate, that categorically state about the good working condition of weighing machine of PW4 used in this case to weigh the ganja seized in this case from the accused.

34. Here it is to answer the cross examination that the accused made on PW1 with respect to the difference in the weight of the ganja seized from the accused, shown in the photographs taken in the inventory proceedings, which are Exts. P16 series. PW1 stood by his narrative that it was 5.040 kilograms of ganja that was seized from the accused, denying the suggestive question whether he had seized 5.60 kilograms of ganja from the accused. Then it was pointed out that each of Ext P16 series of photographs shows the ganja in different weights, such as 5.160 kilograms with its packet, 5 kilograms in the

third photograph and 5.60 kilograms when the very same sample packet was put in the weighing machine upside down. It is elicited from him that none of the photograph shows the weight of 5.40 kilograms as the weight of the ganja. It is also asked to him that the residue ganja, after taking of two samples of 30 grams each would have a weight of 4.90 kilograms.

35. However, in the re-examination the learned Special Public Prosecutor would clarify that difference in the weight of the ganja by getting answer from PW1 that the first photograph showing 5.160 kilograms is the weight of the ganja with its packing, including label and seal. The fourth photograph in Ext. P16 series is the photograph of the ganja kept opened up in its packet. 5 kilograms is the weight of the residue ganja, after taking samples, together with its packet.

36. Needless to say, the clarification made by PW1 in the re-examination sufficiently explains the difference in the weight of the ganja take an under packing in the spot and the residue of it, after taking samples from it. It was because of the inclusion of the weight of the packing of it, it happened to show different weights. It cannot change the actual weight of the ganja that was seized from the accused as stated by PW1 and imputed by the prosecution.

37. On a careful scrutiny of Ext.P16 series of photographs it is seen that, the ganja packet showed different weights in the electronic weighing machine, which are 5.160 kilograms, when it is seen wrapped with white cloth, 5.060 kilograms when it is seen wrapped in polythene cover with label and 5.00 kilograms when is seen wrapped in polythene cover, without label. It appears to be tallying with the explanation given by

PW1 that the weight of 5.160 kilograms is the gross weight of the ganja packet together with its packing with white cloth and the weight of 5.060 kilograms is the weight of the ganja when the white cloth cover was removed. So the weight of 5.00 kilograms is the weight after taking samples of 25 grams each, together with the polythene cover in which it were packed. It makes me to accept the explanation given by PW1 with respect to the difference in the contraband seen in Ext. P16 series of photographs.

38. So also it is seen, two among those photograph shows the samples, the weight of which are shown in the weighing machine as 30 grams each, which in all probability can be found as the weight of the 25 grams of samples together with the plastic covers in which it were packed. There is absolutely nothing to find it otherwise. All this aspects makes me to reject the contention of the learned counsel for the accused made in connection with the difference in the weight of the ganja and samples seen in Ext. P16 photographs.

39. Even otherwise, if it is taken as difference in the weight of the ganja, it can be found to be of trivial quantity below 100 grams, which could be expected to have occurred when large quantities are weighed. It cannot affect the nature of the crime of possessing ganja by accused as imputed by the prosecution, because the evidence brought out by it. Honourable High Court in P. Sakkariya v. State of Kerala (2022, IOC 1837) has ruled this proposition. So also, I am of the considered view to ignore the attempt of the learned counsel for the accused to create doubt on the prosecuted case because of the difference of weight of the ganja he projected, taking aid from Ext. P16 series of photographs.

40. Refusing to resile, the learned counsel for the accused continued attacking the weight of the contraband and samples stated by the prosecution, relying upon Ext. P17 inventory certification of the Magistrate. His first contention is that the Magistrate has specifically stated in that certification that he did not certify the correctness of the identity of item No. 1 in the inventory list, which is the packing of ganja taken into custody by PW1 after seizing from the accused. The description of it as per Ext. 14 is, '5.040 kilograms of ganja filled into two plastic cover and a slip signed by the accused, witnesses and by me (PW1) put inside the cover, and the tide with twine. The packet was covered and tied by a white cloth, affixed a slip on it as mentioned above and tied with jute twine, sealed properly and marked as Ext. P1'. On a perusal of Ext. P17 certification of the Magistrate, it is seen to be a correct statement on the part of the learned counsel for the accused.

41. Here it is to be noted that, the item No. 1 property was produced before the Magistrate along with the packed packing material of the ganja and the bag in which the accused carried the ganja, under Ext. P14 inventory list. It is seen, the Magistrate in the first and second paragraphs of the certification would state that he had inspected those articles and has specifically recorded satisfaction with respect to the truthfulness and correctness of the inventory prepared with the respect to item No. 1. It was thereafter he allowed the taking of samples from it. It means that the Magistrate had found that item No. 1 property produced before him tallies with its description given in Ext. P14 inventory list.

42. Significantly, the Magistrate did not notice any sort of manipulation or tampering in the packet of that item when it was produced before him. It presupposes that, the said item of property was intact in all respects, as it was produced before him under Ext. P29 property list. The said property list was very much available in the case records produced before his court when he was supervising the inventory proceedings and issuing Ext. P17 inventory certification. It was very much open to him to verify item No. 1 property produced before him with Ext. P29 property list so as to find out whether it was anyway tampered with. But he did not do it, instead made statement that he did not certify the correctness of the identity of that item of property when he was about to supervise the inventory proceedings. It necessarily caused to cast a doubt upon the correctness of the identity of that item of property the trial of this case.

43. On an overall consideration of the matters concerning the properties involved in this case, particularly item No. 1 in Ext. P14 inventory list, I feel there is no scope for any such doubt. Because, the Magistrate did not find any manipulation or tampering in it when it was produced before him either at the first instance on 8.8.2019 or on 13.7.2019, the date on which inventory proceedings was made. Since it was intact in the form in which it was described in Ext. P29 property list when it was produced before the Magistrate for inventory proceedings, there is no question of doubting the correctness of its identity, which the magistrate stated to have not verified. There is absolutely nothing to find that the identity of that item of property was doubtful when it was produced before the Magistrate for inventory proceedings, rather it was in a changed state. Accused could not bring out any evidence that affect. Considering it also, I reject that particular

contention of the learned counsel for the accused, ignoring the statement of the Magistrate made in Ext. P17 inventory certification that he did not verify the correctness of the identity of item No. 1 property.

44. So also, the second contention of the learned counsel for the accused, with respect to the weight of the samples, as against the explanation of the prosecution that it showed the weight of 30 grams each, when 25 grams each alone were taken as samples, since it got included the weight of the cover in which it were packed. According to him, the Magistrate has specifically stated in Ext. P17 inventory certification that the weight of the plastic covers in which the samples were taken were having 3 grams each, that could have made an addition of that 3 grams each only with the 25 grams each of the samples to make it 28 grams each. But what is shown as the weight of the samples is 30 grams each, an addition of 2 grams each. According to him, it makes the samples untallying with the narrative of the prosecution that the weight of the sample were shown as 30 grams, because the weight of the covers in which it were packed happened to get added with it.

45. I'm afraid I cannot endorse with this condition of the learned counsel for the accused. He is seen to have missed an important aspect that the packing of the samples were made not with the plastic covers of 3 grams each alone, whereas it were packed with additional packages, such as wrapping the plastic covers of samples with the brown paper and affixing slip in it and tying it with twine and affixing SHO seal in it, as per the deposition of PW1. Needless to say, these packing materials and the wax seal would have its own weight, that could, in all probability, be not less than 2 grams each. Nothing is there to find it otherwise. So when the weight of the additional packing materials of the

samples are added with the 3 grams each of the plastic covers in which the samples were taken, the total weight of the sample packets could be enhanced to 30 grams each, as is recorded as the weight of the sample packets. So I am of the considered view to reject that part of the contention of the learned counsel the rate, Sundar for the accused.

46. Obviously, the evidence of PW8, provides total support to the evidence of PW1 and 2 in the matter of weighing of the ganja seized from the accused in this case. So also, the other part of their evidence regarding the arrest of the accused is seen to be getting corroboration from Ext. P3 provides to it, which can be taken to record a positive, finding with respect to the due arrest of the accused in the spot following the seizure of the ganja from his possession.

47. With respect to the packing of the contraband, PW1 deposed that, he, then packed the ganja, putting it in a polythene cover and putting a label inside it, that contains the signatures of himself, the witnesses and the accused. He wrapped it in a cloth and tied it with twine and affixed a similar type of label and affixed SHO seal in it and took into custody, giving it the marking P1. Then he packed the bag in which the ganja was carried by the accused, wrapping it in brown paper and affixed seal in it. He gave it the marking P2. He affixed slip in it also. Then he packed the covers and threads in which the ganja was packed in a brown paper and affixed slips in it and tied with twine and affixed SHO seal in it. He gave it the marking P3. Then he prepared seizure mahazer, which he proved as Ext. P5. It contains the signature of himself and witnesses, and also the specimen impression of the field of fixed in the contraband.

48. He has identified the bag in which the ganja was carried by the accused as MO1 and the label affixed in the packing of it as Ext. P7. It contains the signature of himself, the witnesses and also the accused. He also has identified the backing materials of the ganja as MO2 series and the label affixed in the sealed packing of it as Ext. P8. He has identified the train ticket seized from the accused as MO3. He has proved Form 15, under which it was produced before the court as Ext. P9.

49. Nothing significant was brought out in the cross examination of PW1 with respect to the packing, labelling, and sealing of the contraband in the spot. On the other hand, his narrative on that aspect receives corroboration from the evidence of PW2, would specify as to the packing of the ganja seized from the accused in a polythene cover and wrapping it in cloth, after putting a label in side it and covering it with brown paper and affixing slip in it. According to him, the packing was given to marking P1. In the same way, the packing material of the ganja, such as a newspaper and plastic thread, were packed in brown paper and affixed slip in it, giving it the marking P3. So also, he specified as to the taking into custody of the bag in which accused carried the ganja by wrapping it in brown paper and affixing slip in it and giving it the marking P2. He specified that he wrote Ext. P5 seizure mahazer, as detected by PW1, describing all these aspects. He put his signature in it as the scribe of it.

50. In the cross examination he specified that it was he who wrote Ext. P5 seizure mahazer. According to him, photographs of the packings were not taken from the spot. He was confronted with Ext. P7 label affixed in MO2 bag and he that it is in a blurred

condition. But he asserted that it is possible to state that it is the SHO seal that is affixed in it.

51. Needless to say, the above evidence of PW2 stands totally in support of the narrative of PW1 with respect to the packing, labelling and sealing of the contraband from the spot, except his narration that the contraband that was packed in cloth was again wrapped with brown paper, which is conspicuously absent in the evidence of PW1. But that particular statement of PW2 cannot be taken to suspect the narration of PW1 with respect to his narration of the packing, labelling and sealing of the contraband, especially when it is found to be getting corroboration from the recitals in Ext. P5 seizure mahazer. It makes me to accept the evidence of PW1 in the matter of packing, labelling, and sealing of the contraband in the spot, supported by evidence of PW2 and the recital in Ext. P5 seizure mahazer. So also, it gets corroboration from Ext. P29 property list that contains a vivid narration of the packed contraband and other articles, which is exactly same to the narration of PW1 on that aspect.

52. Accused could not explain how the vital records of Ext. P5 seizure mahazer and Ext.P29 property list happened to contain the very same narration of the packing, labelling, and sealing of the contraband, as like the statement of PW1. It is seen, the said record was produced before the jurisdiction Magistrate on the date of detection itself, namely 6.8.2019, which is to surge it's credence. So also, I find no reason to find fault with any of these evidences, which runs in unanimity with the evidence of PW1 in the matter of the mode of the packing of the contraband and other articles in the place of detection. It makes me to find that the odd statement of PW2 that the contraband was

again packed in a brown paper after packing it in cloth, is only a stray statement made out of context, maybe because of his loss of memory on that aspect. It, I feel, cannot be put against the above stated three piece of evidences, which runs in unanimity. This makes me to accept the evidence of PW1 with the respect to the packing, labelling and sealing of the contraband in the spot, ignoring the overstatement made by PW2 that an additional brown paper was used to wrap the contraband after it was taken under packing in a cloth. It surges the credibility of the packed contraband and the packing materials, which makes the evidence of PW1 more acceptable.

53. Significantly, PW1 was able to identify the packed ganja from one among Ext. P16 series of photographs taken in the inventory proceedings before the Magistrate. He is able to identify MO1 bag and MO2 series of the packing materials of the ganja in the court, together with the labels affixed in it. It necessarily supports his evidence with respect to the packing, labelling and sealing of the contraband and packing materials in the place of detection itself. It otherwise support the case of the prosecution on that aspect, making it to be accepted and acted upon it.

54. Then, with respect to the post detection procedures, the evidence of PW1 runs to the effect that, he thereafter took the accused along with the contraband and the records prepared to the police station, where he prepared first information statement and based on that registered, first information register. He has approved it as Exts. P10 and P10(a) respectively. He gave intimation of the arrest of the accused to his father over phone. He has proved the arrest intimation as Exhibit P11. With respect to the production of the accused before the jurisdiction Magistrate, evidence is let in by PW9, the investigating

officer who had done that procedure. According to him, while he was working as Inspector of Town North Police Station, he took investigation of the case from PW1. He produced the accused before the court, preparing Ext. P23 remand report. Along with that, he has prepared property list and produced the contraband packed that is given the marking S1 before the Magistrate. He has affixed SHO seal in it.

55. PW9 was cross examined on this aspect and he specified that he had entrusted his subordinate officials to produce the accused and the contraband before the Magistrate and they produced both at the residence of the Magistrate and the Magistrate returned the contraband to PW1, who kept it in his custody. He did not see it thereafter, except the sample taken from it, that he sent to chemical lab for analysis. He was asked about the writing in Ext. P23 remand report, which is the order with respect to the production of the accused before the Magistrate and the remand of him and he would admit that it does not contain the seal of the Magistrate, but the signature of the Magistrate is seen in it. He was also asked about the endorsement made by a police official in that record stating that he had received back the accused and warrant, in which there is no reference as to the production of the contraband and receiving it back, and he answered in the affirmative.

56. The learned counsel for the accused would point out that the above stated endorsements in Ext. P23 remand report by itself would show that the contraband was not produced before the Magistrate along with the accused, which is the earliest stage to produce the contraband before court. However, it is seen from Ext. P29 property list that there is an endorsement regarding the production of the property on 6.8.2019 and the return of it to the police official with the direction to produce it on the next working day

and a corresponding endorsement of the very same police official who had made the endorsement of the receiving back of the accused and warrant, that he received back the property.

57. It is true that there is no seal of the Magistrate fixed in the said endorsement made in Ext. P29 property list regarding the production of the property and the return of it to the police official. But it contains a signature and in the ordinary course it could be the endorsement of the Magistrate made at the time of production of the property before him, in which the seal of the Magistrate cannot be expected to have affixed, especially when it was an endorsement made at his residence, where there cannot be the seal of himself as well as the court. So it can be taken judicial note of that, it is an endorsement made by the Magistrate when the contraband was produced before him along with the accused on 6.8.2019, which is the date of detection of the offence. This categorically proves the timely production of the contraband before the court, along with the accused. So I am of the considered view to reject that part of the contention of the learned counsel for the accused.

58. In all other respects, the registration of the crime and production of the accused and the contraband before the court are perfect, as Exbt. P10 (a) First Information Report is seen received by the Magistrate on the date of detection itself, that is 6.8.2019, as seen from the dated initial of the Magistrate in it. It is seen, Exbts. P23 remand report and Ext. P29 property list are also seen by the Magistrate on that day itself, which necessarily has to give credence to those records and the production of the seized

properties before the court under it. It supports the narrative of PW1 and PW9 on those aspects, which in turn take the prosecution case in a more advantages position.

59. Next is the inventory proceedings. It is done by PW1. According to him, he gave application for inventory proceedings, which he proved as Exhibit P13. Along with that he submitted inventory list also, which also contains his signature and the specimen impression of his personal seal. He has proved it as Exhibit P14. Based on that, he appeared before the court and took 2 samples of 25 grams each and packed it by putting it in plastic covers and pasted it and wrapped it in brown paper and tied it with twine and affixed SHO seal in it. He gave those packings the marking S1 and S2. Thereafter he submitted the list of samples before court, which he proved as Exhibit P15. Photographs of the inventory proceedings were also taken, which he proved as Exhibit P16 series. The packet of ganja that was taken into custody from the place of detection is seen in the first photograph of it. The fourth photograph in it shows the ganja pack in the cover that contains the slip. The Magistrate gave separate certification with respect to the inventory proceedings, which he proved as Exhibit P17.

60. On going through the records of inventory, Exbt. P14 inventory list shows the description of the packet of ganja submitted for inventory proceedings, which is to the effect that, 5.040 kilograms of ganja packed in plastic cover containing a slip having the signatures of accused, witnesses and PW1 and packing cover, that was tied with the twine and packed in white cloth, over which slip of the similar nature is affixed and tied with jute twine, with proper sale and the marking S1. The specimen impression of SHO seal is affixed in the labels is seen affixed in it. Exbt. P17 certification of the Magistrate narrates

the production of the packed ganja and packed packing materials of the ganja before him, which is tallying with the description of those packings made in Ext. P29 property list.

61. In this regard, it is seen the Magistrate has specifically noted that the contraband was packed with polythene and white cloth cover, that contains seal and label and its weight was 5.160 kilograms. Then the outer covers of the packing were removed and weighed the contraband along with the polythene cover in which it was kept and found it to have a weight of 5.060 kilograms. As found above PW1, explained that this weight includes the weight of the plastic cover in which the contraband was packed and that the weight of the ganja alone is 5.040 kilograms. It is seen to be a well-founded explanation, making me to accept it. It is seen the Magistrate has specifically stated in Ext. P17 certificate about the taking of samples, that two representative samples of 25 grams each from ganja, with an assertion as to its genuineness and correctness. It also endorsed the untampered production of the packed contraband before him, without noticing any sort of tampering in it.

62. It is seen the inventory proceedings was initiated on 8.8.2019, as evidence by Exbt. P17 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 in the custody of the court till that date, from the date of detection on 6.8.2019, as it was produced before the Magistrate on that day itself, as seen from Ext. P29 property list. It is true that, the property so produced before the Magistrate on that day was returned back for producing

on the next working day, but there is no evidence to show that PW1 had returned it back on the next working day.

63. But that cannot be taken to suspect the genuineness of the contraband as it is seen to be in an untampered state when it was taken by the Magistrate for inventory proceedings on 8.8.2019, with its label and seal intact, as seen from the endorsement in Ext. P17 inventory certificate. So, I am of the considered view to ignore the absence of evidence regarding the returning back of the contraband on the next working day of 6.8.2019, as ordered by the Magistrate, it does not affect the genuineness of the contraband and the inventory proceedings. In all other respects, the inventory proceedings appear to be perfect, without any reason to suspect it.

64. Needless to say, Exbt. P17 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. P16 series of photographs, which contained the picture of the ganja packed from the spot, wrapped with cloth 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.

65. Continuing with the evidence of PW9, 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 P25. He also has proved Ext. P26 receipt under which the residue ganja was received at AR Camp Kozhikode. Thereafter he prepared forwarding note for sending the sample to chemical lab. He has proved it as Exhibit P24. It contains his signature and the specimen impression of his personal seal.

66. It is proved through Exbt. P24 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, that tallies with the description in Exbt. P15 sample list. The covering letter attached to that record state its date 6.9.2019. It contains an endorsement of the police official taking the samples from the court for producing before the chemical lab. Exbt. P28 chemical analysis report, proved through the investigating officer PW9 would state that the samples reached the chemical lab on 7.9.2019, which is the next day of sending samples from the court. It contains statement that the sample received in the lab were in intact state under proper packing and sealing. It guarantees the genuineness of the samples produced before the chemical lab for analysis.

67. In this regard, it is seen that, Exbt. P28 certificate of the chemical lab categorically states that the samples sent for analysis tested ganja. Accused has 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.

68. With respect to the compliance of Section 57 of the NDPS Act, the evidence of PW1 runs to the effect that, he prepared report under Section 57 of the NDPS Act and

sent to his immediate superior officer, who received it under his signature and seal. He has proved it as Exhibit P12. PW9, the superior officer of PW1 deposed as to the due receipt of that report, which shows his endorsement as to the receipt of it with his signature name and designation with, date and time 6.8.2019 3.15 PM, which is within the time stipulated in that section of law. It makes me to record compliance of the requirements of Section 57 of the NDPS Act and thereby to accept that report in this case.

69. All the above discussed evidence gives positive proof to the prosecution case that accused possessed 5.040 kilograms of ganja at Kozhikode Bus stop at Olavakode, by the side of Palakkad – Kozhikode main road on the afternoon of 6.8.2019 at 3:15 PM. It necessarily attracts the presumption under section 54 of the NDPS. Act, which the first accused is unable to rebut. It makes him liable to be convicted for the offence under section 20(b) (ii) B of NDPS Act.

70. Before parting with this is it to look in to the defence set up by the accused and the evidence he adduced in support of it, namely the testimony of DW1. According to DW1 on 5.8.2019 he was travelling in Mangalore train from Coimbatore to Kozhikode. When the train reached Olavakode railway station, at 2 PM, police officers in civil dress entered it. They approached him and got him off the train and took him to the office of Railway Protection Force. Nobody was there with him. He found police officials bringing another man of middle age, wearing black shirt, to the police station. He identified that man as the accused. They kept him and that man in the lockup of that station. They took his mobile phone and train ticket. Sometime later, some other policeman came over there and took the other man with them. There was nothing in the possession of that man, at

that time. The police who took him also was not possessing anything. He did not have acquaintance with the accused. Subsequently, the policeman took him to the police station, gave him a bag.

71. In the cross examination, DW1 would admit that he is the accused in SC 1146/2019, registered under NDPS Act. He did not give complaint against the police officials for unnecessarily taking him to the police station and taking possession of his mobile phone and train ticket. He was subsequently taken to the Magistrate and was remanded to judicial custody. He did not make any complaint to the Magistrate about the false implication that the police officials made on him. He remained in judicial custody for 11 months. In none of the dates of his remand he gave complaint that he was falsely implicated in this case. He did not opt to adduce evidence of the CCTV footage of Coimbatore Railway Station, to show that he was present there on 5.8.2019.

72. On a close reading of this evidence of DW1, I feel, that it cannot be taken to find against the case of the prosecution put forth against the accused, especially with the proof it received from the above discussed evidence. He is an accused of NDPS case and undergoing trial. He admitted that he saw the accused in the railway police station on that particular day, but with the claim that nothing was in his possession at that time.

73. It is hard to believe it, when his credibility itself is under challenge, for his not acting as a prudent man by giving complaint against the false implication made by police officials on him. Adverse inference has to be drawn against him, making it risky to rely upon his evidence in order to find against the imputation that the prosecution made against the accused in this case. It is an independent and separate case, unconnected with

the case of DW1. He cannot be said to have known of the details of this case and the way in which the contraband involved in this case was seized from the accused and produced before court. His mere statement that he saw the accused along with the policeman in the railway police station, without anything being possessed by him cannot be accepted and acted upon, when the evidence of the prosecution discussed above, cogently brings out that the accused possessed the contraband in this case and he was caught handed and promptly produced before the Magistrate, that culminated in the trial of this case. So, I am of the considered view to reject the evidence of DW1 in this case.

74. Based on the above discussion, it is considered that prosecution succeed in proving its case levelled against the accused, making him liable to be convicted the offences under Section 20(b) (ii) B of NDPS Act.

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

Prepared in Google Docs voice typing app corrected by me and pronounced in Open Court on this the 30th day of March 2026.

Sd/-
Additional Sessions Judge-II

76. Now remains the question of sentence. Accused is heard on the question of sentence, in which he would plead that, he is innocent. He was having some criminal cases during his teenage. It was based on that he is falsely implicated in this case. No

contraband was seized from his possession. He has aged parents and nobody is there other than him to look after them. His learned counsel argued for showing leniency in sentencing him finding that he is the only person to look after his family. The learned Special Public Prosecutor would canvass for imposing the maximum punishment because of the heinous nature of the crime he has committed and the adverse impact that it would have on the society at large.

77. This is a case where accused possessed 5.040 kilograms of ganja in Kozhikode Bus stop at Olavakode. Though the contraband is of intermediate quantity, 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. Indeed, it cannot be found that the accused was not known of the lethal consequence of the criminal act he had done. Still, he brought good amount of ganja, which can only be found for the purpose of circulating among the soft targets, which is a dangerous mindset. It is to be dealt with seriously.

78. So, I sentence the accused 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 20(b)(ii) B of NDPS Act, in default of payment, to undergo Rigorous Imprisonment for 6 months more.

79. He is entitled to get set off under section 468 of BNSS.

80. MOs are ordered to be disposed off as per rules after the expiration of the appeal period.

Prepared in Google Docs voice typing app corrected by me and pronounced in Open Court on this the 31st 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, Expert Witness, Medical Witness, Other witnesses
PW1	Anshad.S., Sub Inspector of Police, Town North Police Station, Palakkad	18.11.2025	Police witness
PW2	Santhoshkumar, CPO 5928, Town North Police Station, Palakkad	19.11.2025	Police witness
PW3	Rakesh, Excise Inspector, Excise Enforcement & Anti Narcotic Special Squad, Palakkad	21.11.2025	Police witness
PW4	Babu@ Moidunni	21.11.2025	Other Witness
PW5	Radhakrishnan	21.11.2025	Other Witness
PW6	Nazarudheen, Village Officer, Palakkad I Village	22.11.2025	Expert Witness
PW7	Aaris	22.11.2025	Other Witness
PW8	Pankajavally, Senior Inspector, Legal Metrology, Palakkad	05.12.2025	Expert Witness
PW9	Shiju Abraham.T., Police Inspector, Town North Police Station, Palakkad.	05.12.2025	Police witness

B. Defence Witnesses

DW1	Jumanul Azeez	04.02.2026	Addl. Witness
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C. Court Witness : Nil

List of Prosecution/Defence/Court ExhibitsA. Prosecution Exhibits

Sl. No.	Exhibits Number	Date	Description
1	Ext. P1	06.08.2019	Section 50 Notice
2	Ext.P2	06.08.2019	Body Search Report
3	Ext. P3	06.08.2019	Arrest Memo
4	Ext.P4	06.08.2019	Inspection Memo
5	Ext.P5	06.08.2019	Seizure Mahazar
6	Ext.P6	06.08.2019	Section 50 (6) Report
7	Ext.P7	--	Label on MO1
8	Ext.P8	--	Label on MO2 series
9	Ext.P9	--	Form 15
10	Ext.P10 Series	06.08.2019	FIR & FIS
11	Ext.P11	06.08.2019	Arrest Intimation
12	Ext.P12	06.08.2019	Section 57 Report
13	Ext.P13	06.08.2019	Application for Inventory
14	Ext.P14	--	Inventory List
15	Ext.P15	06.08.2019	Sample List
16	Ext.P16 Series	--	Photographs (Nos.6)
17	Ext.P17	13.07.2019	Inventory Certificate
18	Ext.P18	--	Correction Report
19	Ext.P19	07.08.2019	Scene mahazar
20	Ext.P20	25.09.2019	Scene Plan
21	Ext.P21	07.08.2019	Relevant Portion of 181 Statement

22	Ext.P22	04.02.2019	Certificate of Legal Metrology
23	Ext.P23	06.08.2019	Remand Report
34	Ext.P24	06.09.2019	Forwarding Note
25	Ext.P25	19.08.2019	Proceedings of Sessions Judge, Palakkad
26	Ext.P26	21.08.2019	Godown Receipt
27	Ext.P27	09.08.2019	General Diary Abstract
28	Ext.P27(a)	24.09.2019	General Diary Abstract
29	Ext.P28	14.06.2021	Regional Forensic Science Laboratory Report
30	Ext.P29	06.08.2019	Property List

B. Defence Exhibits : Nil

C. Court Exhibits : Nil

D. Material objects

Sl No.	Material Objects	Description
1	MO1	Black Colour Bag
2	MO2 Series	Plastic Covers
3	MO3	Train Ticket

Sd/-
Additional Sessions Judge- II

**Fair/Copy of Judgment in
S.C.No.1018/2019
Dated: 31.03.2026**