

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

Monday, the 30th day of March, 2026
9th day of Chaithra, 1948 S.E

SESSIONS CASE No. 1008/2019

(Crime No. 116/2018 of Excise Range Office, Palakkad)

Complainant : State of Kerala, Rep. by the Excise Inspector,
Excise Range Office, Palakkad.
By Adv. Shri. Sreenath Venu,
Special Public Prosecutor, Palakkad

Accused : Mujeeb.K.K. aged 35/2018, S/o
Kunjipariyayi, Kalayamkalathu Veetil,
Karuvannur Desom, Naduvannur Village,
Koyilandy Taluk, Kozhikode District.
By Advocate: Shri.M.Ramdas

Charge Under Section : Under Section 20(b) (ii) (B) of the Narcotic
Drugs and Psychotropic Substances Act, 1985.

Plea of the accused : Not guilty

Finding and Sentence : The accused to undergo Rigorous
Imprisonment for 1 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 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
Mujeeb.K.K	Kunjipariyayi	Coolie	35/2018,	Kalayamkalathu Veetil, Karuvannur Desom, Naduvannur Village, Koyilandy Taluk, Kozhikode District.

DATE OF :

Occurrence	: 15.12.2018
Complaint	: 18.10.2019
Apprehension	: 15.12.2018 & 27.03.2026
Release on bail	: 25.01.2019
Commitment	: 23..01.2020
Commencement of trial	: 07.01.2026
Close of trial	: 26.03.2026
Sentence	: 30.03.2026

This case has been finally heard on 26.03.2026 and this court on 30.03.2026 delivered the following.

JUDGMENT

This is a case based on the Complaint filed by Excise Inspector, Excise Range Office, Palakkad against the accused alleging offence u/s 20 (b) (ii) B 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, accused was found possessing 3.00 kilograms of ganja by carrying in a KSRTC bus bearing number KL 15 A 1534, and caught red handed at Pambampallam Toll Plaza, by the side of Walayar-Palakkad

National Highway, near to the transformer on the morning of 15.12.2018 at 7:50 AM, 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 complaint 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 Learned 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, charge 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 PW6 and marked Exts. P1 to P27, P17 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 he did not do any wrong and that it is a fabricated case. 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.

8. Heard both sides.

9. The points raised for consideration are: -

- i. Whether the accused possessed 3.00 kilograms of ganja by carrying in a KSRTC bus bearing number KL 15 A 1534, and caught red handed at Pambampallam Toll Plaza, by the side of Walayar- Palakkad National Highway, near to the transformer on the morning of 15.12.2018 at 7:50 AM, as alleged?

2) Sentence and Order?

10. **Point No.1:-** It is the case of the prosecution that accused possessed 3.00 kilograms of ganja by carrying in a KSRTC bus bearing number KL 15 A 1534, and caught red handed at Pambampallam Toll Plaza, by the side of Walayar-Palakkad National Highway, near to the transformer, on the morning of 15.12.2018 at 7:50 AM. In proof, thereof, it relied on the evidence of 6 witnesses examined, of which all deposed in tune with their respective points.

11. PW1 is the detecting officer. According to him, on 15.12.2018, he was working as Excise Inspector, Palakkad Excise Range. On that day, he along with his party had jointly conducted vehicle checking at Pambampallam Toll Plaza, by the side of Walayar-Palakkad National Highway, near to the transformer, with Mannarkkad Excise Inspector. At that time, he found a KSRTC bus bearing number KL 15 A 1534, servicing

from Coimbatore to Ernakulam, coming and he stopped it at 6:30 AM. He tried to enter into the bus through its front door. At that time, a man holding a blue bag, containing something, tried to get off the bus through that door hurriedly and to run of there from. He stopped him and asked about the contents of the bag he was carrying. But he did not give any answer, which arose suspicion on him. Then he took possession of the bag from him and inspected it in the presence of the witnesses and the driver and conductor of the bus and found inside, a plastic cover that contains dried parts of some plant. He took a small quantity of it and smelled it after crushing with hands and realized it to be ganja. He convinced the members of his team and the witnesses also the same. He enquired the whereabouts of that person and realized him to be Mujeeb, hailing from Naduvannur Koyilandy. He identified that person as the accused in the court.

12. In the cross examination, PW1 stood by his narrative. He specified that he saw the accused at first in the door step of the bus and that, accused alighted from it there. According to him, there was no much passengers in that bus. Questions were asked with respect to the exact time of the detection of the contraband from the possession of the accused and he answered to the effect that, it was 6:40 AM. However, he would admit that all the records prepared in relation with the detection would state the time of detection as 7:50 AM, but with the clarification that, it is the time of the arrest of the accused. This explanation is seen to be getting corroboration from Ext. P3 arrested memo, in which the time of arrest is recorded as 7:50 AM.

13. PW1 specified that the detection was made in the presence of the conductor and the driver of that bus and that their presence was stated in the seizure prepared in the

spot, which is Ext. P5. On a perusal of that record it is seen to be providing perfect support to this part of his evidence, as the name and address of the conductor and the driver of that bus is specifically stated in it, with their mobile phone numbers. It necessarily has to surge his credibility as far as his narration regarding the detection of the contraband from the accused and its sequence is concerned.

14. It is seen this evidence of PW1 gets corroboration from the evidence of PW3, the Excise Inspector of Mannarkkad Exercise Range, who accompanied him in the detection of the offence. He specified that he was in the team of PW1 in conducting vehicle checking at the Pambampallam Toll Plaza on the early morning of 15.12.2018 and PW1 stopped a KSRTC bus there at 6:30 PM, from which accused tried to run out, holding a blue bag, when PW1 tried to enter into it for conducting checking and PW1 searching out ganja from inside the bag he was carrying, in the presence of witnesses, including the conductor and driver of the bus, that was found kept in a plastic packet. He also would identified the accused in court, stating his name as Mujeeb.

15. The cross examination made on PW3 did not bring out any breakthrough, as he also stood by his narrative. According to him, it was from outside the bus accused was caught and detection of the contraband was effected. He reiterated that it was in the presence of the conductor and driver of the bus, the ganja was detected from the bag of the accused. It is seen, he was questioned with respect to his authority to take part in the detecting team of PW1, when he was working as Excise Inspector of another Excise Range, namely Mannarkkad Excise Range. To which he would answer that, it was based

on the general direction given by the Palakkad Deputy Excise Commissioner to do Walayar Task Force duty he joined the detecting team of PW1.

16. Needless to say, this sort of the evidence of PW3 provides total support to the evidence of PW1 in the matter of detection of the contraband from the accused, when he tried to escape from the KSRTC bus in which he came over the place of detection, after getting off there from, especially when the independent witness PW5 also fully endorse with it.

17. It is seen the evidence of PW5 runs to the effect that, he was residing near to Pambampallam Toll Plaza and that 4-5 years back, in the morning, he saw Excise officials, inspecting a KSRTC bus and catching the accused with a bag, from which ganja was searched out. In the cross examination he would state that he was working as driver in a private bus and he came over there to board a bus to go to his workplace. He came over the scene by 8 AM. He remained there till 12 o'clock of that day.

18. True, that, the time he has stated as 8 AM as a time in which he came to the scene of detection stands untalling with the time that PW1 and 3 have stated as the time of detection as 6:30 AM and that the bus was allowed to continuous service at 7 .00 AM. He could not have got chance to see the bus and the detection of the contraband from the accused, had he came over there at 8 AM. However, it is a fact that his evidence contains all the necessary elements with respect to the detection of the contraband from the accused, as deposed by PW1 and 3. It makes me to find that he was an eye witness to the detection of the contraband from the accused in that particular day and place. Significantly, he is seen to be a signatory in Ext. P5 seizure mahazer, which, PW1

asserted to have contemporaneously prepared in the spot. PW3, fully endorsed it by saying that, it was he who wrote that record as per the direction of PW1 in the spot. It makes it to find with respect to the presence of PW5 in the spot at the time of detection of the contraband from the accused. It otherwise makes me to find that the time he had stated as the time in which he saw the Excise officials catching the accused with the bag and searching out ganja from inside his bag could be a bona fide mistake on his part, especially when there is nothing to find that he had stated the time of his witnessing that incident with utmost precision. In the circumstances, I am of the considered view to accept the evidence of PW5 and to act upon it.

19. No doubt, the evidence of PW5 sufficiently provides corroboration to the evidence of PW1, which otherwise get support from the evidence of PW3 in the matter of the detection of the contraband from inside the bag of the accused at Pambampallam toll Plaza, on the early morning of 15.12.2018. It necessarily, gives positive proof to that part of the case of the prosecution.

20. PW1 deposed further that, then he weighed the ganja in the electronic weighing machine available in his official vehicle and found it to have 3 kilograms. Then he intimated him of the necessity to conduct search of his body and his right to get the presence of a Magistrate or a Gazetted officer for the same. He gave written notice of it to him. He has proved that notice as Ext. P1. It contains signatures of himself, the witnesses and also the accused. Then he contacted Palakkad Excise Circle inspector to witness the body search of the accused as Gazetted officer and he agreed to come to the spot. Then he

allowed the bus to continue service at 7 AM for the sake of the convenience of the passengers in it.

21. According to PW1, at 7:30 PM, the Gazetted officer came to the spot and he introduced him to the accused. Then he inspected the body of the accused in the presence of the officer and the witnesses present over there. But no objectionable articles could be found out from his body, except a bus ticket travelable from Coimbatore to Palakkad and two currency notes of ₹100/- (Two hundred only). He prepared as Ext. P2 search list in relation with the searching out of those articles. It contains the signature of himself, the witnesses, the Gazetted officer and also the accused.

22. In the cross examination, PW1 would admit that the Gazetted officer who came to witness the body search conducted on the accused is his immediate superior officer. But nothing significant is brought out to show that it caused prejudice to the accused, as his immediate superior officer acted with bias to enable him collect evidence against the accused in the body search conducted on him, nor is there anything to show that he had violated any of the requirements of law in the matter of conducting body search of the accused.

23. Prosecution examined the immediate superior officer of PW1, who is PW4, who deposed as to his witnessing, the body search conducted on the accused by PW1 and the sequence of events that led to his becoming such a witness. He specified that PW1 rang him up and requested to witness the body search to be conducted on the accused and he went to the spot and witnessed the searching out of the bus ticket and two currency notes ₹100/- (Rupees one hundred only) from the pocket his shirt . He specified that he

signed in Ext. P2 search list prepared in connection with that body search of the accused. He would state the number of the bus ticket that was searched out from the body of the accused as 852513, which is exactly the number of the bus ticket stated in Ext. P2 search list.

24. In the cross examination, PW4 would state that the KSRTC bus was not there in the spot when he reached the spot. He was asked with respect to the bus ticket, and he would answer that, it is an electronic ticket, the contents of which would be fed in the device from which it is generated.

25. Apparently, there is nothing to find fault with the body search conducted on the accused by PW1, taking PW4 as the Gazetted officer to witness that search. It is seen, accused was apprised of his right to get the presence of a Magistrate or a Gazetted officer for the purpose of his body search to be conducted by PW1, as evidence by Ext. P1 notice. It is seen to be prepared on 15.12.2018, the date of the detection itself. It contains the signature of PW1, the witnesses and also the accused, with his writing under his signature that he received that notice. Accused has no explanation to this notice and this endorsement he made in it. It sufficiently proves the due compliance of the requirement of Section 50 of NDPS Act. So also, it is seen the presence of PW4 adds to it, making me to record a positive finding with respect to the body search conduct on the accused by PW1, especially when it is seen to be getting perfect corroboration from the recitals in Ext. P5 seizure mahazar on that aspect.

26. It is seen the evidence of PW3 provides total corroboration to the evidence of PW1 with respect to the body search conducted on the accused in the presence of PW4,

as he has categorically deposed it, beginning with PW1 apprising him of his right to get searched in the presence of a Magistrate or a Gazetted officer and giving notice for the same and thereafter bringing PW4 to witness the body search conducted on the accused. So also, he would state as to the searching out of the bus ticket and two currency notes of ₹100/- (Rupees two hundred only) from his body in the search conducted on him.

27. With respect to the weighing of the ganja seized from the accused, PW1 deposed in the cross examination that it was the official weighing machine that was used to weigh it. PW3 also would deposed about the weighing of the ganja seized from the accused in the using of the official weighing machine available in their official vehicle for the same. No other infirmities could be brought out by the accused in the cross examination of PW1 and 3 with respect to the weighing of the contraband seized from the accused, making me to find in favour of the proper weighing of the ganja seized from the accused by PW1 in the place of detection, which strengthens the prosecution case further.

28. Continuing with the evidence of PW1, he deposed that, he, then arrested the accused at 7:30 AM, intimating him of the gravity of the offence he had done. He has proved the arrest memo prepared for the same as Ext. P3. It contains the signature of himself, the witnesses and that accused. The thumb impression of the accused was also taken in it. Then he gave intimation of the arrest of the accused to his wife over phone, the written record of which he proved as Ext. P4.

29. Ext. P3 arrest memo provides corroboration to this part of the evidence of PW1, regarding the arrest of the accused in the place of detection. It is seen prepared on 15.12.2018. It contains the signature of PW1, witnesses and also the accused. The thumb

impression of the accused also is seen affixed in it. Accused has no explanation as to how his signature and thumb impression happened to be there in that record. It makes it to find as to the genuineness of the arrest of the accused made in the spot. It is seen to have produced before the jurisdictional Magistrate on 15.12.2019, as evidence by the dated initial of the Magistrate and the dated seal of the Magistrate court. So also, Ext. P4 arrest intimation given to the wife of the accused about the arrest of the accused is seen to have received by the Magistrate on the same day, as per the dated initial of the Magistrate and dated seal of the Magistrate court, which are to surges the credibility of that record.

30. It is seen, PW3 also has specifically deposed about the arrest of the accused in the place of detection and giving intimation of it to his wife over phone. In the cross examination, he would state that the grounds of arrest is intimated to the accused by mentioning it in the arrest memo, but with the admission that the copy of it was not given to him in the spot. Ongoing through Ext. P3, it is seen mentioned in it, the possession of 3 kilograms of ganja by the accused.

31. All the evidence makes me to record a finding that the accused was duly arrested in the place of detection and intimation of it was given to his wife over phone.

32. Then with respect to the packing, labelling, and the sealing of the contraband, PW1 deposed that he packed the 3 kilograms of ganja in a polythene cover and sealed its opening by melting and wrapped it in brown paper and affixed a label in it, that contains a brief description of the case, and the signatures of himself, the witnesses and the accused. He also affixed his personal seal 'MR' in it. He tied it with twine and took into custody, giving it the marking P1. He also has packed the plastic cover in which

the ganja was kept in a brown paper and affixed similar label in it, that also contains the impression of his personal seal and gave it the marking P2. He took it into custody the bag in which the accused carried the ganja, affixing label in it. Then he has prepared Ext. P5 seizure mahazer, which contains the signatures of himself and witnesses. He also affixed the impression of his personal seal in it.

33. PW1 has identified the plastic cover in which the ganja was seen kept in the bag of the accused as MO1. He also has identified the label affixed in the packing of it as Ext. P9. It contains the signatures of himself, the witnesses and the accused, apart from the specimen impression of his personal seal. He identified the bag in which the accused carried the ganja as MO2 and also the label affixed in it as Ext. P10. It also contains the signatures of himself, the witnesses, the accused and also the specimen impression of his personal seal.

34. 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 narration on that aspect receives corroboration from the evidence of PW3, who would specify as to the packing of the ganja seized from the accused in a polythene cover, sealing of its opening by melting and wrapping it with the brown paper and affixing label in it that contains the brief description of the case and the signatures of PW1, the witnesses and also the accused. According to him, the specimen impression of the personal seal of PW1 'MR' is also affixed in it. He specified that, PW1 gave that packing the marking P1.

35. PW3 deposed further that, PW1 took into custody the plastic cover in which the ganja was kept by the accused by wrapping it in brown paper and affixing similar label in it and giving it the marking P2. So also, he specified as to the taking into custody of the blue bag in which accused carried the ganja, affixing seal in it and giving it the marking P3. 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.

36. In the cross examination PW3 reiterated that it was he who wrote Ext. P5 seizure mahazer. He began writing it at 8 AM and ended it at 8:45 AM. According to him, the names of the independent witnesses were not stated in the body of the seizure mahazer, whereas their name were written in the bottom of it, in which they put their signature. It is seen, he was able to identify the contraband from one among the photographs taken in the proceedings, marked as Ext. P17 series, apart from identifying MO1 plastic cover and MO2 bag in the court, together with the labels affixed in it, which are Exts. P9 and P10 respectively.

37. Needless to say, the above evidence of PW3 stands totally in support of the narration of PW1 with respect to the packing, labelling and sealing of the contraband from the spot. The recital in Ext. P5 provides perfect corroboration to evidence of PW1, which is supported by that of PW3. So also, it gets cooperation from Ext. P13 property list that contains a vivid narration of the packed contraband and other articles, which is exactly same to the narration of PW1 and PW3 on that aspect.

38. Accused has no explanation with respect to Ext. P5 seizure mahazer and Ext.P13 property list that contains the very same narration of the packing, labelling, and

sealing of the contraband, as like the statement of PW1 and PW3. It is seen, the said records were produced before the Magistrate on 15.12.2018, the date of detection itself, which is to surge the credence of those records. All these evidences makes me to record a positive finding with respect to the due packing, labelling and sealing of the contraband in the place of detection.

39. Next is the post detection procedures. PW1 deposed that, he then took the accused along with the contraband and other articles and also the records prepared to the Excise Range office, where he prepared crime and occurrence report. He has proved it as Ext. P11. He has prepared Ext. P12 remand report and produced the accused before the court. He also has produced the properties seized from the accused before the court, preparing Ext. P13 property list. It contains the specimen impression of his personal seal. He has produced the currency notes seized from the accused to the court.

40. On a perusal of these records, it is seen that Exbt. P11 Crime and Occurrence Report was prepared on 15.12.2018. Exbts. P12 remand report, shows that the Magistrate passed orders remanding the accused to judicial custody on 15.12.2018 itself. As stated above the Magistrate received P13 property list on the same day Needless to say, it gives credence to those records and the prompt production of the seized properties before the court under it. It supports the narrative of PW1 on those aspects, which in turn take the prosecution case in a more advantages position.

41. With respect to the inventory proceedings, the evidence of PW1 runs to the effect that, he gave application for inventory proceedings, which he proved as Ext. P14. Along with that, he submitted Ext. P15 inventory list. It contains his signature and also

the specimen impression of his personal seal. Based on that he appeared before the court on 19.12.2018 and took two samples of 25 grams each from the ganja and packed in polythene cover and sealed its opening by melting and wrapped it in brown paper and affixed his personal seal in it. He gave it the marking S1 and S2. He produced sample list for the same, which he proved as Ext. P16. It also contains his signature and specimen impression of his personal seal. Photographs of the inventory proceedings were taken, which along with its CD he proved as Ext. P17 series. The ganja taken under packing from the spot can be seen from the first photograph in it. The Magistrate has issued separate certification for the inventory proceedings, which he proved as Ext. P18.

42. On going through the records of inventory, Exbt. P15 inventory list shows the description of the packet of ganja submitted for inventory proceedings, which is to the effect that, 3 kilograms of dry ganja covered in a plastic cover and melted the opening and covered with the brown paper and sealed and labelled. The specimen impression of SHO seal is affixed in the labels is seen affixed in it. Exbt. P18 certification of the Magistrate narrates the production of the packed ganja and packed packing materials of the ganja before her, which is tallying with the description of those packings made in Ext. P15 inventory list and Ext.P13 property list. It is seen the Magistrate has specifically stated in Ext. P18 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.

43. It is seen the inventory proceedings was initiated on 19.12.2018, as evidence by Exbt. P18 certification of the Magistrate, which is the 4th 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 15.12.2018, as it was produced before the Magistrate on that day itself, as seen from Ext. P13 property list. The contraband was in an untampered state when it was taken by the Magistrate for inventory proceedings on 19.12.2018, with its label and seal intact, as seen from the endorsement in Ext. P18 inventory certificate.

44. Needless to say, Exbt. P18 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. P17 series of photographs and its CD, which contained the picture of the ganja packed from the spot, wrapped in 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.

45. Continuing with the evidence of PW1, he deposed that, he sent the residue of the ganja, after taking samples to AR camp Kozhikode as per Ext. P20 proceedings of the District Court. He also has proved the receipt with respect to the receipt of the residue ganja there in the camp. Then he prepared forwarding note for sending the samples to chemical lab, which he proved as Ext. P22. As per that note, the sample given the mark S1 was sent to the chemical lab for analysis. The other sample that was given the marking S2 was kept in court as reserve sample. He has proved it as MO3 and the label affixed in the packet of it as Ext. P23.

46. It is proved through Exbt. P22 forwarding note that the very same sample taken in the presence of the Magistrate, given the marking as S1, were sent to chemical lab, as seen from the description of the sample given in it, that tallies with the description in Exbt. P16 sample list. The covering letter attached to that record state its date 12.2.2019. It contains an endorsement of the Excise official who the samples from the court for producing before the chemical lab. It is dated 15.2.2019, which proves that sample was taken to the chemical lab from the court only on 15.2.2019 and not on 12.2.2019, the date in the covering letter of the forwarding note. It is seen, Exbt. P27 chemical analysis report, proved through the investigating officer PW6 would state that the samples reached the chemical lab on 16.2.2019, 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.

47. In this regard, it is seen that, Exbt. P27 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.

48. With respect to the compliance of Section 57 of the NDPS Act, the evidence of PW1 runs to the effect that, he prepared Ext. P24 report under section 57 of the NDPS Act and submitted to his immediate superior office, who received it putting his signature with date. He had submitted the copies of the crime and occurrence report and also the seizure mahazer along with that report to the superior officer.

49. On going through Ext. P24 report under Section 57 of the NDPS Act it is seen to be prepared by PW1 and sent to his immediate superior officer on 15.12.2018, the date of detection itself. It is seen to be received by his immediate superior officer on that date itself, as seen from his endorsement there of, with signature and date. PW4, who is the immediate superior officer of PW1 as specifically stated as to the receipt of Ext. P24 report, with the assertion that he received it under his dated signature, put in it. Needless to say, this evidence sufficiently proves the fact that PW1 has sent report to PW4 under section 57 of NDPS Act within the time stipulated, and the latter received it, making me to record compliance of the requirements of Section 57 of the NDPS Act and thereby to accept that report in this case.

50. All the above discussed evidence gives positive proof to the prosecution case that accused possessed 3.00 kilograms of ganja by carrying in a KSRTC bus bearing number KL 15 A 1534, and caught red handed at Pambampallam Toll Plaza, by the side

of Walayar-Palakkad National Highway, near to the transformer, on the morning of 15.12.2018 at 7:50 PM. It necessarily attracts the presumption under section 54 of the NDPS. Act, which the accused is unable to rebut. It makes him liable to be convicted for the offence under section 20(b) (ii) B of NDPS Act.

51. Here I would like to look into the certain contentions raised by the learned counsel for the accused, which, according to him is sufficient to find against the case of the prosecution levelled against the accused. The first thing is the non-mention of the exact time of the detection of the contraband from the accused. He would point out that, PW1 claims it to be at 6:30 PM in the examination in chief, but in the cross examination, he would state that it was at 6:40 AM the detection was made. So also, he claimed that PW3 state the time of detection as 8:30 AM. In the light of this oral testimonies, he would point out that the records prepared in this case shows different times as the time of detection in Ext. P5 seizure mahazer is stated as 8.00 PM and Ext. P3 arrest memo shows the time of detection as 7:50 AM. According to him, this by itself is sufficient to doubt the very detection of the contraband allegedly made from the accused.

52. I am afraid I cannot endorse with this contention of the learned counsel for the accused. It is a fact that different times are noted in different records prepared in connection with this case at the time of detection of the contraband. But PW1 explained it by saying that, the time of 8.00 PM shown in Ext. P5 seizure mahazer is the time of preparing it and the time of 7:50 AM shown in Ext. P3 arrest memo is the time of the arrest of the accused from the spot. However, PW1 in the cross examination, specifically state that the time of dictation is at 6:40 AM. This, I feel, could be found to be the correct

time of detection of the contraband, as it is his evidence that he started vehicle checking at 6:30 AM, making it to take a bit time more for the detection of the contraband from the accused, that must have made the actual time of detection at 6:40 PM as deposed by him. So I am of the considered view to accept that time as the time of detection of the contraband from the accused. It does not run different to the time of detection he stated in the examination in chief as 6:30 AM, because he referred that time as as the time in which he started vehicle checking duty in that spot.

53. Having found so, no fault can be found with in recording different times in Exts. P5 seizure mahazer and Ext. P3 arrest memo, as the times stated in those records are the times of the particular actions took place under those records. It cannot shatter the actual time of detection of the contraband from the accused as stated by PW1 as 6:40 AM. So also, it is to find that, PW3, the officer who accompanied PW1 in detecting the offence did not state the time of detection as 8:30 AM in his examination in chief. He only mentioned the time of starting the vehicle checking duty at 6:30 AM, without mentioning the exact time of detection of the contraband from the accused.

54. All this aspects makes me to find that there is no contradiction or difference in the matter of stating the actual time of detection of the contraband by PW1 from the accused, as argued by the learned counsel for the accused.

55. The next convention is relation with a bus ticket allegedly seized from the accused from the spot. The evidence of PW1 on that aspect is to the effect that, he searched out the bus ticket from the pocket of his shirt in the presence of PW4, along with two currency notes of ₹100/- (Rupees two hundred only). He has identified the bus ticket

as Ext. P6. According to him he has produced it before the court in Form 15 A. He has written the number of the bus ticket and the date of it in that Form. He has proved that Form as Ext. P7. The contents of it got obliterated due to passage of time. However, he took a copy of the ticket, which also he had produced before the court in that form. He has proved the copy of the ticket as Ext. P8.

56. The learned counsel for the accused would point out that Ext. P6, blank bit of paper is a record concocted by PW1 for the purpose of showing that accused was travelling in the KSRTC bus in order to suit with the case he built up against the accused. He would point out that the said blank record cannot be used in this trial, since there is no guarantee that it is the ticket of a KSRTC bus, as claimed by PW1. However, PW1 has specifically stated that he had taken copy of that bus ticket after taking the accused along with the contraband and records to the Excise office and produced before court along with Ext. P6 bus ticket in. Form 15 A. It is Ext. P8. The land counsel for the accused challenged that copy by saying that there is nothing to authenticate that it is a true copy of Ext. P6 bus ticket, which is in a blank condition.

57. In this regard, it is to be noted that, PW1 has specifically mentioned the number of the bus ticket in Ext. P6 Form 15A. So also, he has stated that number in Ext. P5 seizure mahazer, which is proved to be contemporaneously prepared in the spot of detection. It necessarily proves that the said ticket was available at the time of detection of the contraband from the accused, giving no chance to find the false creation of such a bus ticket by PW1 for the purpose of this case. The number of the bus ticket shown in the seizure mahazer guarantees the existence of such a bus ticket at the time of detection of

the contraband from the accused, making it to accept the other part of the evidence of PW1 that he had taken Ext. P8 copy of that was ticket and produced before the court. This makes me to find no fault with Ext. P6 blank bus ticket and Ext. P8 copy of it produced before the court.

58. As a matter of fact, even without Ext. P6 bus ticket and Ext. P8 copy of it, the fact that accused was a passenger in that KSRTC bus on the day and time of detection is seen to be brought out through the combined evidence of PWs 1, 3, 4 and 5, supported by the records prepared in the spot. In the circumstances, I am of the considered view that no weightage to the contention of the learned counsel raised on the basis of Ext. P6 blank bus ticket and Ext. P8 copy of it.

59. Based on the above discussion, it is considered that prosecution succeeded 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.

60. **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.

Dictated to Google Docs voice typing app typed by it and corrected by me and pronounced in Open Court on this the 27th day of March 2026.

Sd/-
Additional Sessions Judge-II

61. Now remains the question of sentence. Accused is heard on the question of sentence, in which he would plead that, he has a family consisting of wife and a female kid and that he is the only person 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. He would point out further that he has 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 and the adverse impact that it would have on the society at large.

62. This is a case where accused possessed 3.00 kilograms of ganja by carrying in a KSRTC bus from Tamil Nadu to Kerala. The quantity of the contraband is intermediate. Still, 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. However, it is fact that accused has no criminal antecedents, which is a mitigating circumstance.

63. Considering all these facts, I sentence the accused to undergo Rigorous Imprisonment for 1 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 6 months more.

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

65. 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 30th day of March 2065.

Sd/-
Additional Sessions Judge-II

APPENDIXList of Prosecution/Defence/Court WitnessA. Prosecution Witness :-

Rank	Name	Date	Whether Eye witness, Police Witness, Excise Witness, Expert Witness, Medical Witness, Other Witness
PW1	M.Riyas, Excise Inspector, Excise Range Office, Palakkad.	07.01.2026	Excise Witness
PW2	Subash, Village Office, Pudussery East Village.	09.01.2026	Excise Witness
PW3	V.Balasubramaniyan, Excise Inspector, Excise Range Office, Mannarkkad	14.01.2026	Excise Witness
PW4	Satheesh.P.K., Excise Circle Inspector, Excise Circle Office, Palakkad.	17.01.2026	Excise Witness
PW5	Manikandan	17.01.2026	Other Witness
PW6	M. Sajeevkumar, Excise Inspector, Excise Range Office, Palakkad.	05.02.2026	Excise Witness

B. Defence Witnesses :- NilC. Court Witness:- NilList of Prosecution/Defence/Court ExhibitsA. Prosecution Exhibits

Sl No.	Exhibit Number	Date	Description
1	Ext.P1	15.12.2018	Section 50 Notice
2	Ext.P2	15.12.2018	Search List
3	Ext.P3	15.12.2018	Arrest Memo
4	Ext.P4	15.12.2018	Arrest Intimation
5	Ext.P5	15.12.2018	Mahazar
7.	Ext.P6	15.12.2018	Bus Ticket
8.	Ext.P7	15.12.2018	From 15 A

9.	Ext.P8	15.12.2018	Copy of Bus Ticket
10.	Ext.P9	--	Label in MO 1
11.	Ext.P10	--	Label in MO2
12.	Ext.P11	15.12.2018	Crime and Occupation Report
13.	Ext.P12	15.12.2018	Remand Report
14.	Ext.P13	15.12.2018	Property List
15.	Ext.P14	15.12.2018	Inventory Application
16.	Ext.P15	15.12.2018	Inventory List
17.	Ext.P16	19.12.2018	Sample List
18.	Ext.P17 Series	--	Photographs (Nos.5) and CD (No.1)
19.	Ext.P18	19.12.2018	Inventory Proceedings
20.	Ext.P19	15.12.2018	Specimen Seal & Signature
21.	Ext.P20	24.12.2018	Proceedings of Sessions Judge, Palakkad
22.	Ext.P21	25.12.2018	Godown Receipt
23.	Ext.P22	12.02.2019	Forwarding Note
24.	Ext.P23	--	Label in MO3
25.	Ext.P24	15.12.2018	Section 57 Report
26.	Ext.P25	07.09.2019	Scene Plan
27.	Ext.P26	10.09.2019	Scene Mahzar
28.	Ext.P27	31.12.2021	Chemical Examination Report

B. Defence Exhibits :- Nil

C. Court Exhibits :- Nil

D. Material Objects :-

Sl No.	Material Objects	Description
1	MO1	Plastic Cover
2	MO2	Bag
3	MO3	Reserve Sample

Sd/-
Additional Sessions Judge- II

**Fair/Copy of Judgment in
S.C.No.1008/2019
Dated: 30.03.2026**