
	Presented on : 12/07/2024 Registered on: 12/07/2024 Decided on :23/04/2026 Duration 01 Yr 09 M 11 D
IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, PANHALA AT PANHALA (Presided over by K. D. Kakatkar) Summary Criminal Case No.588/2024. EXH. NO. 16 /B In C.R.No.81 of 2024 of Kodoli Police Station. PART-A	
Prosecution	State of Maharashtra, Through Officer in-charge, Kodoli Police Station.
Assistant Public Prosecutor	Smt. D. B. Patil
Accused	Vasant Shivram Sawant Age – 77 years, Occu – Agricultural R/o. Satave, Tal. Panhala, Dist. Kolhapur
Advocate for accused	Adv.B. S. Ambekar and Smt. B. B. Ambekar

PART-B

Date of offence	05.04.2024
Date of First information report	05.04.2024
Date of Chargesheet	12.07.2024
Date of Framing of Charges	22.04.2025
Date of commencement of evidence	24.02.2026
Date on which Judgment is reserved	Nil
Date of Judgment	23.04.2026
Date of sentencing order, if any	No.


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Accused particulars

Name of accused	Date of arrest	Date released on bail	charged with	Acquitted or convicted	Sentence	Period under trial
Vasant Shivram Sawant	Nil	Nil	Section 65(E)	Acquitted.	Nil	Nil

PART-C**List of Prosecution/Defence/ Court witnesses****A. Prosecution witnesses -**

Sr.No.	Name	Description
PW. 1	Vilas Bhivaji Gurav	Panch
PW. 2	Rushikesh Prakash Patil	Informant

B- Defence witnesses -**NIL****C- Court witnesses -****NIL****List of Prosecution/ Defence /Court Exhibited Documents -****A. Exhibited documents of Prosecution -**

Sr.No.	Exh.No	Description
1.	1	Chargesheet
2.	13	Complaint
3.	14	FIR

B. Exhibited documents of defence :- NIL


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C. Exhibited documents by Court :-

Sr.No.	Exh.No	Description
1.	1	Chargesheet
2.	9	Charge
3.	11	Deposition of witness no. 1
4.	12	Deposition of witness no. 2
5.	13	Complaint
6.	14	FIR
7.	15	313 Statement of accused

D. Material Object :- NIL.**JUDGMENT**

(Delivered on 23th day of April, 2026)

Accused is facing this trial for allegedly having committed offence punishable under section 65(e) of The Maharashtra Prohibition Act.

2. It is prosecution's case that, on 05.04.2024 Rushikesh Prakash Patil received secrete information that illicit liquor was being illegally transported for sale. Accordingly, panch witnesses were called and was asked to accompany the raiding party. Police staff conducted raid in presence of panch witnesses. He was stopped and in presence of panch witnesses 14 bottles of 180 ml of Country liquor was found. It was seized in presence of panch witnesses by Police Constable Rushikesh Patil. Detail panchanama in that regard was prepared. Seized property was brought to Police Station Kodoli, District Kolhapur.



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3. Report came to be lodged. On the basis of it, FIR was registered. During investigation, statements of witnesses were recorded and after completion of investigation, final report came to be filed against accused. After securing the presence of accused, procedure of trial as provided under Chapter XX of Cr.P.C. was followed. As per section 251 of Cr.P.C., particulars of the offence supra were stated to accused at Exh-9. Accused understood it, pleaded not guilty, claimed for trial and accordingly the trial began.

4. By following the procedure under section 254 of Cr.P.C., prosecution has examined 02 witnesses. After that witnesses the prosecution failed to secure the presence of another witnesses. At that time evidence of prosecution was closed. For the purpose of enabling accused to personally explain the circumstances in evidence against him and before he was called on for his defence, he came to examined under section 313(1)(b) of Cr.P.C. From the answers given by accused during his examination and from course of cross-examination, his defence appears to be of total denial and false implication. Accused has not produced any evidence in his defence. Heard learned A.P.P. and learned advocate for accused.

5. Considering the matter before the Court, following points arise for my determination. Decisions thereon are recorded & reasons for the same are discussed herein under ;

Sr.No.	POINTS FOR DETERMINATION	DECISIONS
1.	Whether accused was found in possession of or selling any intoxicant other than opium or hemp	Negative


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	without permit or license & in contravention to provisions of The Maharashtra Prohibition Act ?	
2.	What order ?	Accused is acquitted.

Reasons For Decision

As To Point No. 01 :-

6. Prosecution has examined two witnesses i.e. constable Rushikesh Prakash Patil who is informant. Informant has reiterated the story of prosecution about conduction of raid on 05.04.2024 in presence of panchas, finding of 14 bottles of 180 ml of Country liquor in possession of accused, its seizure, sealing of samples and lodging of report with police station. Recitals of FIR gives corroboration under section 157 of Indian Evidence Act to the ocular testimony of informant. Investigating officer is not examined.

7. Crux of present case is finding of intoxicant in possession of accused. For this, firstly seizure of contraband from possession of accused needs to be proved and then it must be proved that, the seized contraband was actually any intoxicant other than opium or hemp. For that purpose, seizure panchanama becomes material piece of evidence. Therefore the prosecution failed to prove recovery of alleged contraband. Due to these ample variations, it will not be appropriate to rely upon the testimony of informant to conclude that, liquor was found in possession of accused. Mere marking of panchanama with exhibit number does not dispense with the proof of it.


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8. Basic purpose of drawing panchanama in presence of panch is to have independent corroboration to police action and material aspects of it. In absence of corroboration by panch, it is harsh to rely upon varying testimony of informant. Investigating officer has failed to record statement of any independent witness from the locality who will attest the action taken by police. Prosecution has failed to examine other, cogent, reliable, independent witness who will corroborate or strengthen the testimony of informant. Therefore, for want of sufficient cogent and reliable evidence, prosecution has failed to prove seizure of contraband from possession of accused.

9. It is for prosecution to establish that, alleged contraband was any intoxicant. For that, the chemical characteristics of contraband must be proved. Only manner of proving it is its chemical analysis. Report of chemical analysis is not filed on record. Therefore, it is not proved that, the alleged contraband was liquor or any intoxicant as defined under the Act.

10. Section 103 of the Maharashtra Prohibition Act provides for special presumption in prosecutions under this Act. It says that, in any prosecution under this Act, it shall be presumed without further evidence until the contrary is proved that the accused has committed an offence under this Act in respect of any intoxicant or otherwise, for the possession of which he is unable to account satisfactorily. However, the basic aspects of seizure of alleged contraband from possession of accused is itself not proved and it is further not proved that it was actually any intoxicant other than opium or hemp. Therefore, there does not arise any question of applying the presumption supra to conclude that accused has committed an offence under this Act. As the


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presumption itself does not apply, there is no question of shifting onus of proof for rebutting any presumption.

11. From entire locality, investigating officer has not found any person whose statement could be recorded in support of police action. At least one independent witness should have been examined by prosecution. Obviously, it does not mean that, police personnel are never to be believed. It is also settled principle of law that, Courts must not strive for quantity of evidence, rather quality of evidence must be emphasized. If sole testimony inspires confidence of Court and is free from discrepancies, then it must be believed. The prosecution failed to secure the presence of another witness.

12. Due to non-examination of independent witness, testimony of police witness appears to be not entirely trustworthy. Seizure of contraband from possession of accused is not proved. There is reasonable doubt in the case of prosecution and benefit of it will have to be given to accused. Finally, I conclude that, prosecution has failed to prove the guilt of accused beyond reasonable doubt for the offence supra. Resultantly, I answer point No.01 in negative.


As To Point No. 02 :-

13. From the decision to the point supra, I am inclined to acquit accused from the leveled charge. Accused must be directed to furnish bonds with surety under section 437-A of Cr.P.C. After the appeal period, as per section 452 of Cr.P.C. muddemal property i.e. 14 bottles of 180 ml of Country liquor needs to be forwarded to State Excise Department, for disposal according to law. Finally, I answer point No.02 as accused is acquitted and pass the following order ;


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ORDER

- i.** Accused **Vasant Shivram Sawant** r/o. Satave, Tal. Panhala District Kolhapur is held not guilty and is acquitted as per section 255 (1) of The Code of Criminal Procedure, 1973 of the offence punishable under section 65(e) of The Maharashtra Prohibition Act, 1949 and he is set at liberty.
- ii.** Bail bonds of accused furnished under section 437 of Code of Criminal Procedure stands canceled & his surety stands discharged.
- iii.** As per section 452 of Code Of Criminal Procedure, after the appeal period muddemal property 14 bottles of 180 ml of country liquor be forwarded to State Excise Department, for disposal according to law.
- iv.** As per section 437-A of Code of Criminal Procedure accused shall furnish P.B. and S.B. of Rs.15000/- to appear before Hon'ble Appellate Court till next six months.

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Panhala.

Date. 23.04.2026

(K. D. Kakatkar)

Judicial Magistrate First Class,
Panhala.