

MHMM140008082017	Date of filing	:	03	03	2017
	Date of	:	03	03	2017
	Registration				
	Decided on	:	09	06	2026
	Period	:	Y	M	D
			09	03	06

Part A

Exh.	
<u>IN THE COURT OF THE ADDL. CHIEF JUDICIAL MAGISTRATE,</u> <u>4TH COURT, GIRGAON, MUMBAI.</u> (PRESIDED OVER BY S. S. PARAVE)	
Details of FIR/ Crime and Police Station	Crime No. 29/2017 (Police Station Tardeo)
Case No.	Criminal Case no. 400401/PW/2017 MHMM14-000808-2017
Complainant/ Prosecution	State of Maharashtra through P.I. Police Station Tardeo
Represented by	APP. Smt. Maya Khairnar
Accused	1. Kiranbhai Haribhai Rathod Age – 44 yrs., Occ.- service, Res:- Virar, Dist. Thane. 2. Shahnawaj Mohammad Sayyed (absconding) 3. Rajesh Govindbhai Patel Age – 49 yrs., Occ.- hawker, Res:- Tardeo, Mumbai.
Represented by	Adv. Shri Joseph Soddar

Part B

Date of offence	02.01.2017
Date of FIR	02.01.2017
Date of Charge sheet /complaint	03.03.2017
Date of commencement of evidence	16.11.2024
Date on which judgment is reserved	09.06.2026
Date of the Judgment	09.06.2026
Date of the Sentencing Order, if any	-----

Accused Details

Rank of the accused	Name of accused	Date of Arrest	Date of Release on bail	Offence charged with	Whether acquitted or convicted	Sentence imposed	Period of Detention undergone during Trial for purpose of Section 468, BNSS
1.	Kiranbhai Haribhai Rathod	02.01.2017	02.01.2017	Section 81, 82 of the Maharashtra Prohibition Act	Acquitted	---	-----
2.	Shahnawaz Mohammad Sayyed	02.01.2017	02.01.2017		Discharged		
3.	Rajesh Govindbhai Patel	02.01.2017	02.01.2017		Acquitted		

Part C**LIST OF PROSECUTION/DEFENCE/COURT WITNESSES****A. Prosecution:**

RANK	NAME	EXHIBIT	NATURE OF EVIDENCE
PW 1	Sunil Pandurang Balade	Exh. 12	Informant

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution :

Sr. No.	EXHIBIT NUMBER	DESCRIPTION
1.	Exhibit 13/PW 1	First information report (FIR)

J U D G M E N T**(Delivered today on this Tuesday June 09th, 2026)**

1. Accused No. 1 and 3 are facing trial for the offences punishable Under Sections 81, 82 of the Maharashtra Prohibition Act.

2. **The case of the prosecution is as under :**

On 02.01.2017, the informant namely Sunil Pandurang Balade, Police Naik, Tardeo Police Station lodged report in the Tardeo Police Station alleging that, on 02.01.2017 at about 09.30 p.m. he himself and other staff of Tardeo Police Station were patrolling within the limits of Tardeo Police Station. At that time, they found some persons were drinking liquor in front of Central Wine Store, situated at the side of Belasis Road. The accused No. 1 was the Manager of the Central Wine Shop. He was supplying liquor and plastic bags to the customers for drinking liquor in front of his shop. While accused no. 3 was selling snacks to the customers. Accused No. 2 was one of the customer found to them while having liquor in front of the shop. Thus the accused No. 1 committed the breach of license/permit granted for selling the liquor and accused Nos. 2 and 3 gave intentional aid or instigation to accused no. 1 for committing the breach of his permit.

3. On the basis of said report, Tardeo police registered the C.R. No.29/2017 against accused Nos. 1 to 3 for the offences punishable under sections 81, 82 of the Maharashtra Prohibition Act. After the investigation, chargesheet is came to be submitted against accused Nos. 1 to 3 for the

commission of aforementioned offences.

4. Before the commencement of trial, the prosecution failed to secure the presence of accused No. 2. Hence, my Ld. Predecessor as per order below Exh. 8 dated 05.04.2024, separated the trial of accused Nos. 1 and 3. My Ld. Predecessor explained the particulars (Exh.12) of the offence punishable under section 81 and 82 of the Maharashtra Prohibition Act to accused Nos. 1 and 3 and recorded their plea. The accused pleaded not guilty and claimed to be tried. Their defence is of total denial and false implication.

5. The points for determination alongwith my findings thereon are as under :-

<u>Sr.</u> <u>Nos</u>	<u>Points</u>	<u>Findings</u>
1	Does the prosecution prove that accused No. 1 committed the breach of license/permit standing in his favour by allowing accused No. 2 to drink liquor in front of his shop and accused Nos. 2 and 3 gave intentional aid to accused No. 1 for the said act?	... Not Proved
2.	What order ?	As per final order

REASONS

As to Point No. 1:

6. The informant states in his evidence that on 02.01.2017, at about 09.30 p.m. when he himself and other staff of Tardeo Police Station were performing patrolling duty, some persons were having liquor in front of Central Wine Store. They were not having license for consuming liquor.

Thereafter, API Naukudkar seized the liquor bottles and glass by conducting seizure panchanama. Thereafter, he lodged report Exh.13 against the accused.

7. The oral evidence of the informant nowhere discloses the name of owner/manager of Central Wine Store. His evidence also nowhere speaks about the involvement of accused Nos. 2 and 3 in the alleged offence. As per the oral evidence of the informant, the persons found in front of Central Wine Shop, were not having license for consuming liquor. In such circumstances, it is difficult to conclude that accused No. 1 being Manager of Central Wine Store, was facilitating the customers for having liquor in front of his shop and accused No. 3 was giving intentional aid by supplying snacks to the customers. The oral evidence of the informant also nowhere shows that the accused No. 2 gave intentional aid to accused No. 1 for allowing the customer to have liquor in front of his shop.

8. The prosecution has not placed on record any scientific evidence to show that the persons found in front of Central Wine shop were consuming liquor. In the absence of any scientific evidence, it is difficult to conclude that the substance found in the possession of accused was liquor.

9. In all these circumstances, it is difficult to conclude that the accused No. 1 committed the breach of license/permit standing in his favour for the sale of liquor by allowing his customers to drink liquor in front of his shop and accused Nos. 2 and 3 gave intentional aid to accused No. 1 for the same. Hence, it is clear that prosecution has failed to establish point No. 1. Hence, I answer point No. 1 in the negative.

As to Point No. 2:

10. In view of negative finding to the point No. 1, accused Nos. 1 and 3 will have to be acquitted for the offence punishable under sections 81

and 82 of the Maharashtra Prohibition Act.

11. The prosecution has relied on same set of evidence against accused No. 2 as well. As above discussed, the evidence adduced by the prosecution is not sufficient to establish the guilt of the accused. Hence, the available evidence is also not sufficient to connect the accused No. 2 with the alleged offence. Hence, no purpose will be served by keeping the case pending against accused No. 2. Therefore, accused No. 2 also will have to be discharged from the present case.

12. The seized plastic bottle of country liquor and two plastic glass are of no use, therefore it will have to be destroyed. In the circumstances, I answer point No. 2 accordingly and pass following order:

-: ORDER :-

1. The accused Nos. 1 and 3 are acquitted of the offences punishable under sections 81 and 82 of the Maharashtra Prohibition Act vide Section 255(1) of the Code of Criminal Procedure.

2. Accused No. 2 is discharged from the offences punishable under sections 81 and 82 of the Maharashtra Prohibition Act.

3. After appeal period is over, the seized plastic bottle of country liquor and plastic glass be destroyed.

4. The bail bonds of accused Nos. 1 to 3, if any, are cancelled.

sd/-

(S. S. Parave)

Addl. Chief Judicial Magistrate,
4th Court, Girgaon, Mumbai.

Date:- 09.06.2026

Dictated & typed on : 09.06.2026

Signed on : 09.06.2026

sas