MHNS160016312025

Presented on	**:-**	**26/12/2025**		
Registered on	**:-**	**26/12/2025**		
Decided on	**:-**	**06/04/2026**		
Duration	**:-**	**YY**	**MM**	**DD**
		00	**03**	**09**

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS,

(COURT NO. 1) CHANDWAD

(Presided over by S.S.CHHALLANI)

[Delivered on 06/04/2026]

[**SCC No.757/2025**]

Cr. No. 257/2022

(Exh. 12 Continue..)

Under Section 65 (a), 65(e), 90 R/W 80,81,83,103 of Maharashtra Prohibition Act.

PROSECUTION	**The State of Maharashtra Through, The Inspector State Excise Flying Squad Maharashtra State State Excise Bhavan 4th Floor Plot No. 1450 Muni. Co-orp. Auditorium Marg Fort Mumbai-400001, Through Excise Department, Flying squad, Sharanpur Road, Nashik. Dist- Nashik**
APP for State	Shri. N.S. More, Advocate
ACCUSED	**1. Mohammad Hamid Ali,**

	Age: 27, Occupation : Driver, R/o Hamid 82/19, at Post Kochinava, Tah- Bantwala, Dist-Dakshina Kannada, State- Karnataka. Aadhar No. 2829863717. **2. Ansar Ahmmad,** Age: 37, Occupation : Driver/transporter, R/o Blarkode House, Kudul, Dist-Kasargod, State-Keral. Aadhar No. 5410731313.
REPRESENTED BY	Shri. H.S. Jadhav, Advocate
Date of Offence	29/10/2025
Date of Complaint	29/10/2025
Date of Framing of Charge/plea on VC link https://meet.google.com/kpq-avxj-rwm?authuser=0&pli=1	26/12/2025 (received with signature of accused in presence of Jail authority on 02.01.2026)
Date of commencement of evidence	09/01/2026
Date on which judgment is reserved	Nil
Date of the Judgment	06/04/2026
Date of the Sentencing Order, if any	Accused are convicted as

	per final order dated 06/04/2026.

Rank of the Accused	1 and 2
Name of Accused	**1. Mohammad Hamid Ali,** **2. Ansar Ahmmad,**
Date of Arrest	Accused No. 1 arrested on 29/10/25 Accused No. 2 arrested on 01/12/25
Date of Release on Bail	Accused are under trial.
Offence charged with	Under Section 65 (a), 65(e), 90 R/W 80,81,83,103 of Maharashtra Prohibition Act.
Whether acquitted or convicted	Convicted.
Sentence Imposed	As per final order
Period of Detention Undergone during Trial for purpose of Section 428, Cr.P.C.	Accused No. 1 arrested on 29/10/25 Accused No. 2 arrested on 01/12/25 entitled for set off for the period undergone.
Remarks	Convicted as per final order

<u>LIST OF PROSECUTION/ COMPLAINANT / DEFENCE / COURT WITNESSES</u>

A) Prosecution:

RANK	NAME	NATURE OF EVIDENCE	Document proved/ Exhibited by witness
PW-1 Exh.12 Con..	**Dhanraj Ratan Pawar**	Informant and carrier of sample to laboratory.	Exh. 18-Report, Exh.19-FIR, Exh. 20-Carrier sample letter, Exh. 21- Sample deposit receipt at laboratory, Exh.16 and 17-Fake Builty.
PW-2 Exh.12 Con..	**Rohit Shamrao Patil**	Panch witness	Exh. 26 Spot and Seizure Panchanama of Liquor, vehicle and Mobile, Exh. 27- Mobile verification Panchanama,
PW-3 Exh.12 Con..	**Kiran Balu Dhindhale**	Investigating Officer	Exh.32-Station Diary Entry, Exh. 33- face recording of accused/Arrest Form, Exh. 36-letter to RTO, Exh. 53 Information received from RTO, Exh. 37 to 41 letter to the Builty Company,

			Exh. 44 letter to HDFC for fast tag information, Exh. 45 Fast tag information of seized vehicle, Exh. 49- Arrest Form of accused No. 2, Exh.52- CA Report,

B) Defence Witnesses, if any :

RANK	NAME	NATURE OF EVIDENCE
Nil	Nil	Nil

C) Court Witnesses, if any :

RANK	NAME	NATURE OF EVIDENCE
Nil	Nil	Nil

LIST OF COMPLAINANT / DEFENCE / COURT EXHIBITS

A) Prosecution :

Sr. No.	Exhibit Number	Description	Document proved/ Exhibited by witness
1	19	Report	PW-1, Exh.12 cont..
2	20	FIR	PW-1, Exh.12 cont..
3	26	Spot and Seizure Panchanama	PW-2, Exh.12 cont.. PW-3, Exh.12 cont..
4	27	Mobile verification	PW-2, Exh.12 cont..

		panchanama	
5	32	Station Diary Entry	PW-3, Exh.12 cont..
6	33 and 49	Accused Arrest Form/panchanama	PW-3, Exh.12 cont..
7	34 and 35	Letter for CDR	PW-3, Exh.12 cont..
8	36	Letter to RTO	PW-3, Exh.12 cont..
9	53	Information from RTO of seized vehicle	PW-3, Exh.12 cont..
10	37 to 41	Letter to Builty company	PW-3, Exh.12 cont..
11	42 and 43	Letter for permission to go to Keral and Goa	PW-3, Exh.12 cont..
12	47	Permission letter to Visit keral	PW-3, Exh.12 cont..
13	44	Letter for fast tag information to HDFC	PW-3, Exh.12 cont..
14	45	Information of seized vehicle about fast tag/Toll	PW-3, Exh.12 cont..
15	50	Accused Transit remand order	PW-3, Exh.12 cont..
16	52	Chemical Analyzer report	PW-3, Exh.12 cont..

B) Defence :

Sr. No.	Exhibit No.	Description
Nil	Nil	Nil

C) Court Exhibits :

Sr. No.	Exhibit No.	Description
1.	12	Charge/plea and statement/nivedan of accused
2.	56 and 57	Statement of accused U/S.351 of BNSS

D) Muddemal :

Sr. No.	Article No.	Description
Nil	Nil	Nil

J U D G M E N T

(Delivered on this 06th day of April 2026)

The accused are facing trial for the offence punishable under section 65 (a), 65(e), 90 R/W 80,81,83,103 of Maharashtra Prohibition Act, 1949 (henceforth Mah. Pro. Act for short).

2. The Particulars for the offence punishable under section 65 (a), 65(e), 90 R/W 80,81,83,103 of the Mah. Pro. Act is framed at Exh. 12. The particulars are explained to the accused to which accused pleaded not guilty and claimed to be tried.

3. Prosecution has examined in all three witnesses. From the mode of cross examination and from the statements made by accused under section 351 of Bharatiya Nagarik Suraksha Sanhita, 2023, the defence of accused appears to be of total denial and false implication in this matter.

4. I have heard learned APP shri. N.P. More and learned counsel shri. H.S. Jadhav for the accused. On the basis of the prosecution case, following points arise for my determination and my findings thereon are given for the reasons mentioned below.

Sr. No.	P O I N T S	FINDINGS
1.	Does the prosecution prove that, accused No.1 and 2 being driver and transporter in furtherance of their common intention imported, exported, transported and are possessed for such other person in contravention of the provisions of Maharashtra Prohibition Act, were found in possession with 52,800 bottles of "Royal Blue Molt Whiskey" of 180 ml each of Rs. 1,16,16,000/- which was only manufacture and to be sold in Goa State but illegally without any permit or licence found in Maharashtra State and thereby both accused has committed an offence punishable under s. 65(a) read with section 80,81 and 83 of Maharashtra Prohibition Act ?	**Yes.**
2.	Does the prosecution prove that, accused No.1 and 2 being driver and transporter in furtherance of their common intention imported, exported, transported and are	**Yes.**

	possessed for such other person in contravention of the provisions of Maharashtra Prohibition Act, were found in possession 52,800 bottles of "Royal Blue Molt Whiskey" of 180 ml each of Rs. 1,16,16,000/- for the purpose of sells or buys which was only manufacture and to be sold in Goa State but illegally without any permit or licence found in Maharashtra State and thereby both accused has committed an offence punishable under s. 65(e) read with section 80,81 and 83 of Maharashtra Prohibition Act ?	
3.	Does the prosecution prove that, accused No.1 and 2 being driver and transporter in furtherance of their common intention imported, exported, transported and are possessed for such other person in contravention of the provisions of Maharashtra Prohibition Act, were found in possession 52,800 bottles of "Royal Blue Molt Whiskey" of 180 ml each of Rs. 1,16,16,000/- which was only manufacture and to be sold in Goa State but illegally without any permit or licence found in Maharashtra State and thereby	**Yes.**

	both accused has committed an offence punishable under s. 90 of Maharashtra Prohibition Act ?	
4.	What Order ?	**Accused are convicted as per final order.**

R E A S O N S

5. Prosecution examined in all three witnesses. Informant and carrier **PW-1 Dhanraj Ratan Pawar**, Spot and seizure Panch **PW-2 Rohit Shamrao Patil** and **PW-3 Kiran Balu Dhindhale,** investigating officer.

6. Prosecution has proved some documentary evidence, such as Exh. 18-Report, Exh.19-FIR, Exh. 20-Carrier sample letter, Exh. 21- Sample deposit receipt at laboratory, Exh.16 and 17-Fake Builty, Exh. 26 Spot and Seizure Panchanama of Liquor, vehicle and Mobile, Exh. 27- Mobile verification Panchanama, Exh.32-Station Diary Entry, Exh. 33- face recording of accused/Arrest Form, Exh. 36-letter to RTO, Exh. 53 Information received from RTO, Exh. 37 to 41 letter to the Builty Company, Exh. 44 letter to HDFC for fast tag information, Exh. 45 Fast tag information of seized vehicle, Exh. 49- Arrest Form of accused No. 2, Exh.52- CA Report. I will discuss the documents in foregoing paras at relevant place.

<u>Facts of the prosecution case in brief as under</u> :

7. On 29/10/2025 at about 11:45 a.m. Sub-Inspector K. B. Dhindhale of Excise Department, Nashik has received secret information that, one Ishar Truck bearing No. MH-43-Y-9399 of blue color has illegally transporting liquor in the State. He thereafter, taken entry of same in Station diary (**Exh.32**) and along with his staff and panch witness visit the spot. As per secret information they found accused No. 1 with same vehicle Near Mangurul Phata, near Sai Prasad Hotel, Chandwad on Mumbai-Agra Highway at about 17.05. On preliminary inquiry with accused, he informed that, he is transporting Electronic material and oil can and shown bilty-pass for the same but, as secret information was in respect of illegal transportation of liquor and therefore they, broken the seal of said vehicle container in presence of panch witness and accused. They found there in about 1100 brown color boxes of "Royal Blue Malt Whiscky" of 180 ml each I.e 52,800/- bottles of Rs. 1,16,16,000/-. As said liquor is only to be Manufactured and only to be sold in Goa State but found illegally in Maharashtra and therefore accused was taken in custody and as there are about 1100 boxes and due to rush on Mumbai-Agra High way, it was decided to take said vehicle and accused to their office at Nashik for further process and thereafter said vehicle was taken to their office compound at Nashik and further process of panchanama was completed. The said muddemal, Ishar truck and mobile total muddemal of Rs. 1,41,21,000/- was seized. Two bottles from the said Muddemal Liquor was kept separate for chemical analysis and they are sealed and put label of signature of panch witness thereon. The informant thereafter lodged report on behalf of State. Accordingly, offence was registered against accused and set the law in to motion.

8. The sealed intact bottle was sent to Regional Forensic laboratory for Chemical Analysis through carrier/Informant Dhanraj Ratan Pawar (PW-1) on 31.10.2025 as per letter Exh. 20 and he submitted the sealed intact bottles at laboratory vide receipt at Exh. 21 and thereafter Chemical analysis report is received at Exh. 52.

9. The Crime No.257 of 2025 registered about the occurrence of offence and the accused No. 2 thereafter arrested from Keral. After completion of the investigation, the Investigating Officer laid the charge sheet against the accused for the offence punishable under section 65 (a), 65(e), 90 R/W 80,81,83,103 of Maharashtra Prohibition Act, 1949.

AS TO POINT NO.1 To 3

10. The points are interlinked to each other and therefore taken together to avoid repetition.

11. In order to prove the seizure, the prosecution has examined Panch witnesses PW-2 Rohit Shamrao Patil. He deposed that, Sub-Inspector Dhindhale of Excise department has called him to the office on 29/10/2025 and informed him about the secret information and request him to accompanied them for panchanama. He deposed that, thereafter with staff and other panch they proceeds towards Mumbai-Agra High way. They stop before Chandwad Toll Plaza, near Mangural Phata on Mumbai-Agra High way. He deposed that, at about 5.00 to 5.30 one Ishar Truck No. MH-43-Y-9399 of blue color was stop by Shri. Dhindale. That time they informed to driver about them and asked his name, he told his name as Mohammad Ali. That, time driver informed to them that, he is transporting electronic things from said vehicle and shown builty pass/Transoportation pass. He deposed that, thereafter seal of said vehicle container was broken in his presence and said vehicle was found with brown color boxes of Royal Blue malt Whiskey of about 52,000 bottles of 180 ml each. He deposed that, muddemal was in large quantity and therefore they had taken said vehicle to their office at Nashik. He deposed that, at Nashik office all boxes are unloaded and muddemal counted and two bottles sample was separated and panchanama (Exh.26) was prepared in his presence. PW-1 deposed that, on second day he was again called at Nashik office and in his presence accused Mobile of Redmi company was open in his presence and recording and Whats-app images was taken from said mobile and panchanama was prepared in his presence (Exh. 27).

12. In the cross examination of PW-2 Rohit Shamrao Patil nothing fruitful to the case of accused is brought on record on the contrary it is brought on record that, he has no occasion to sign panchanama except in this matter. So, it is brought on record that, he is not habitual panch. It is also brought on record in the cross examination that, there was heavy rush on Mumbai-Agra High way. It is bought on record that, two bottles for chemical analysis was separated but their separate panchanama was not prepared. He admitted that, he was in the office till 10-11 p.m. and print was taken in his presence and he has signed on panchanama along with other.

13. In the cross examination of PW-2 Rohit Shamrao Pati, he admitted that, he was not entered in vehicle personally and all boxes are not open on the spot. He admitted that, batch number and serial number of bottles is not mentioned in panchanama. He admitted that, panchanama of muddemal inside the seized vehicle was not prepared on spot. He admitted that, only boxes from which two bottles was separated for chemical analysis was open in his presence and remaining boxes are not open. He admitted that, in the first panchanama (Exh.26) mobile was seized and sealed. He admitted that, photo and print from said mobile was taken on 30.10.2025 in his presence. He admitted that, he was not at Sai Prasd hotel for panchanama.

14. It is argued by advocate for accused that, panchanam Exh. 26 was shown the place at near Hotel Sai prased and witness admitted that, panchanama was not prepared on said Hotel sai Prasad, near Mangural Phata I.e on spot and therefore doubt is created. Ld APP submitted that, the

FIR and deposition of witness is self explanatory that, they found said vehicle on spot. I.e Near Hotel Sai Prasad, Manural phata but as there was rush on Mumbai-Agra High way and due to large quantity of Muddemal liquor I.e about 1100 boxes I.e 52800 bottles and therefore though the panchanama was started from said spot but it was completed at their office when all muddemal was unloaded, counted and therefore actua panchanam was complited at Nashik Office and therefore preparation of panchanam at Sai Prasad Hotel and the defence of accused has not found any substance. Nothing therefore brought on record to disbelieve the version of witness for seizure of Muddemal Liquor from the possession of accued. Therefore, spot and seizure is proved beyond all reasonable doubt.

15. Prosecution witness PW-1 Informant Dhanraj Ratan Pawar deposed that, On 29/10/2025 Sub-Inspector K. B. Dhindhale of Excise Department, Nashik has received secret information that, one Ishar Truck bearing No. MH-43-Y-9399 of blue color has illegally transporting liquor in the State. He thereafter along with his staff and panch witness visit the spot. As per secret information they found accused with same vehicle Near Mangurul Phata, near Sai Prasad Hotel, Chandwad on Mumbai-Agra Highway. On preliminary inquiry with accused, he informed that, he is transporting Electronic material and oil can and shown bilty-pass (Exh. 16 and 17) for the same but, as secret information was in respect of illegal transportation of liquor and therefore they, broken the seal of said vehicle container in presence of panch witness and accused. They found there in about 52,800/- bottles of "Royal Blue Malt Whiscky" of 180 ml each. He deposed that, due to rush on Mumbai-Agra High way, it was decided to take said vehicle and accused to their office at Nashik for further process and thereafter said vehicle was taken to their office compound at Nashik and further process of panchanama was completed. He deposed that, total muddemal of Rs. 1,41,21,000/- was seized. He deposed that, two bottles from the said Muddemal Liquor was kept separate for chemical analysis and they are sealed and put label of signature of panch witness thereon. He thereafter lodged report on behalf of State. Accordingly, offence was registered against accused and set the law in to motion. He deposed that, he has taken those sealed intact bottle to Regional Forensic laboratory for Chemical Analysis as per letter Exh. 20 and he submitted the sealed intact bottles at laboratory vide receipt at Exh. 21.

16. In the cross examination of PW-1 Dhanraj Ratan Pawar, he admitted that, they have not informed about secret information to any other police Station nor taken their help for trap. He admitted that, after 30 to 45 minutes when they reached on spot thereafter the alleged vehicle was come on spot. He admitted that, accused was not arrested on spot. He admitted that in FIR entry on 29/10/2025 at 11.45 p.m is mentioned but he voluntarily stated that said night entry was wrongly taken. He admitted that, in the list of seizure panchanama Buity entry is not mentioned. He admitted that, muddemal was given to him for submitting to Chemical analysis on 31/10/205 at 11.00 a.m.

17. It is argued by Ld. Advocate for accused that, panchanama was not prepared on spot. It is argued that, excise officer has not given their self search/own search to accused before entering on said vehicle and FIR was lodged at 11.00 to 11.30 in Night and therefore has created doubt of alleged incident. Ld. APP submitted that, witness are stated that due to rush on Mumbai-Agra High way and as timing was about 05 to 5.30 p.m and Muddemal Liquir was of large quantity I.e about 1100 boxes I.e 52800 bottles and of Rs.1,16,16,000/- and therefore they decided to take said vehicle to their office at Nashik and therefore panchanama though started from said spot but it was completed at their office after all liquor boxes was unloaded and counted. So, defence of accused has not found any substance.

18. Moreover, giving search to accused is not material in this mater as muddemal liquor I.e 52800 bottles are seized in this matter and it is not possible to put or kept such large quantity muddemal in the pocket of said officer. Moreover the witness has stated in the cross examination that, he has given his search to accused and therefore the said defence has not found any substance.

19. The advocate for accused has taken defence that FIR was not lodged immediately. However, it is to be noted in this matter that, at about 17.05 said vehicle was found with large quantity of liquor and therefore said vehicle was taken to their office and after unloading the Muddemal Liquor the panchanama was prepared till 11.00 to 11.30 p.m and thereafter FIR was lodged and therefore there was no delay for lodging FIR as stated by advocate for accused and I have not found any substance in the defence of accused. Therefore, nothing brought on record to disbelieve the version of witness PW-1.

20. Prosecution witness PW-3 Kiran Balu Dhindhale deposed that, On 29/10/2025 at about 10 to 10.30 a.m. he has received secret information that, one Ishar Truck bearing No. MH-43-Y-9399 of blue color has illegally transporting liquor from Nashik to Dhule. He thereafter, taken entry of same in Station diary (Exh.32) and along with his staff and panch witness visit the spot. As per secret information they found accused No. 1 with same vehicle Near Mangurul Phata, Chandwad on Mumbai-Agra Highway. On preliminary inquiry with accused, he informed that, he is transporting Electronic material and oil can and shown bilty-pass/transportation pass for the same but, as secret information was in respect of illegal transportation of liquor and therefore they, broken the seal of said vehicle container in presence of panch witness and accused. They found there in “Royal Blue Malt Whiscky” of 180 ml each. He deposed that, as there was large quantity of liquor and due to rush on Mumbai-Agra High way, it was decided to take said vehicle and accused to their office at Nashik for further process and thereafter said vehicle and accused was taken to their office compound at Nashik and further process of panchanama was completed. He deposed that, muddemal was unloaded in their office and they found there in about 1100 brown color boxes of "Royal Blue Malt Whiscky" of 180 ml each I.e 52,800 bottles. He deposed that, two bottles from the said Muddemal Liquor was kept separate for chemical analysis and they are sealed and put label of signature of panch witness thereon. The informant thereafter lodged report on behalf of State. He received investigation in this matter, he has handed over muddemal to Carrier PW-1 for chemical analysis on 31/10/2025. He has issue letter for CDR of accused mobile, he issued letter for collecting information of alleged vehicle from RTO, letter for Fast tag/toll entry from HDFC, letter to bilty/transporation pass company etc. He has arrested accused No. 2 from Keral. He deposed that, he has received Chemical analysis report at Exh.52 and it is filed along with charge sheet. He recorded statement of witness. He deposed that, he found evidence against accused persons and therefore filed charge sheet.

21. In the cross examination of PW-3 Kiran Balu Dhindhale, he admitted that, number of vehicle and color is not mentioned in the station diary entry at Exh.32. But, he voluntary stated that, there may be leak of information if vehicle number and color is mentioned in Station diary and therefore it was not mentioned therein. He admitted that first panch come at about 11.45 and second panch was taken from Ozar at about 12.15. He admitted that it was not mentioned in panchanama that, second panch was taken from Ozar. It is immaterial that, when panch are come to office or one of them was taken from Ozar. But it is material as they both are taken by I.O. and admittedly, said fact is brought on record by accused himself in cross examination that, both the panch witness was accompanied to investigating officer as one is come to their office at 11.45 and second panch was taken from Ozar at about 12.15 and they thereafter proceeds towards the spot and reached at about 4.30 to 4.45.

22. He admitted that, time 11.45 p.m and two person mentioned in report are wrongly typed. He admitted that, when seized vehicle was taken to Nashik its entry at Pimpalgaon Toll Naka was not taken. He admitted that, mobile was seized on 29/10/2025 and sealed on same day but separate panchanama for broken of seal was not prepared on 30/10/2025. He admitted that, he has not filed Indian Evidence act section 65-B certificate with screen shots of whats app etc. He admitted that, his senior Gauda was accompanied with them at the time of trap but his signature was not taken on any document. He admitted that, there was no written order from Shri. Gauda for investigation to him. He admitted that, statement of adjoining person was not recorded.

23. The accused himself brought on record during cross examination that, Shri Gauda was accompanied with them but his signature was not taken on any documents. Therefore his presence is not disputed to the accused and he is present at the time of Trap and therefore his separate written order for investigation is not required at all as his presence itself authorized the process of further investigation and it is not required all the time that investigation is to be done only by written orders as investigation is also to be conducted by oral order or with the oral authority or directions of superior or senior and therefore the defence has not found any substance. Therefore Nothing brought on record to disbelieve the version of witness PW-3.

24. The learned counsel for the accused argued that the doubt is created about the seizure of liquor, the Chemical Analyzer is not examined in this matter. He further submitted that, second panch is not examined in this matter. The version of witness are different from each other and prosecution failed to prove the case beyond all reasonable doubt and therefore prayed to acquitted the accused.

25. It is not necessary to examine the chemical Analyzer to prove the report as the report has presumption under section 129-B of the Maharashtra Prohibition, Act and also under section 293 of Cr. P.C. (**Section 329 of BNSS**) and there is not necessary to examine quantity of witness as per section 134 of

Indian Evidence Act (**section 139 of BSA**) to prove the contents in the documents and therefore not necessary to examined the second panch witness to prove the seizure and therefore, I do not find any substance in the argument of counsel for the accused.

26. No Contradiction, omissions are proved in the evidence of investigating officer by the accused. Nothing in the cross examination of PW-1, PW-2, PW-3 is brought on record from which it can be inferred that, this witness is deposing false. The defence has brought nothing from which it can be assumed that, the witness have any enmity with the accused to deposed falsely against them. There is no evidence to show that they are interested in prosecuting the accused. Therefore, I do not find any reason to discard their testimony. PW-2 is the independent witness. He deposed that Royal Blue Malt Whiskey of 52000 bottles of 180 ml each was seized from the accused in vehicle in his presence and his version is corroborated with the evidence of PW-3 Investigating officer and Informant PW-1. Hence, Seizure and spot panchanama is proved beyond all reasonable doubt.

27. Prosecution has examined P.W.1 Dhanraj Ratan Pawar he is informant and also the carrier of sample (liquor bottle) to the Regional forensic Laboratory. He handover the sample Bottle at Laboratory. The letter Exh. 20 and acknowledgment from C.A. lab is at Exh. 21. Nothing brought on record in his cross examination to disbelieve his version.

28. The question to be decided is about the contents of the sample taken in bottle from the muddemal seized by the Excise officer. In order to ascertain the same, the seized bottle was sealed and sent for chemical analysis along with letter to C.A **Exh. 20**. On perusal of Exh.20, it is seen that one bottles of "Royal Blue malt Whisky" having 180 ml sample, seized in crime No. 257/2025, was sent for chemical analysis to Regional Forensic Science Laboratory, through Dhanraj Ratan Pawar, B. No. 76 (PW-1). Seizure is proved by panch witness PW-2 and thereafter Informant and carrier PW-1 proved the delivery of seized bottle to the Regional Forensic Lab. The journey of seized sample from the stage of seizure till the stage of delivery to Forensic Science Laboratory is established beyond all reasonable doubts. Now it is the stage to see the result of Chemical Analysis.

29. The Chemical Analysis report is at **Exh. 52**. As per provision of **section 129-B** of the Maharashtra Prohibition Act it has presumption,

"Any document purporting to be,

(a) a certificate under the hand of registered Medical practitioner the Chemical Examiner or assistant Chemical Examiner to the Government, under section 129A or of an officer appointed under sub section (1) of the section or

(b) a report under the hand of a registered Medical practitioner, in any hospital or dispensary maintained by the State Government or local authority or any other

registered medical practitioner authorized by the State Government in this behalf in respect of any person, examined by him or upon any matter or thing duly submitted to him for examination or analysis and report, may be used as evidence of the facts stated in such certificate, or as the case may be report, in any proceeding under this Act; but the court may if it thinks fit, and shall on the application of the prosecution or the accused person, summon and examine any such person as to the subject matter of his certificate or as the case may be report."

30. Therefore, there is presumption of Chemical analysis report. On perusal of Chemical Analysis Report (**Exh.52**), it is seen that, sample Test is shown as positive.

a. The sample Contains 41% v/v of ethyl alcohol in water, and it is not a medicinal or antiseptic or toilet preparation, nor a flavoring material.

31. **Section 2(24)** of Maharashtra Probation Act clarifies that 'liquor' includes spirits, denatured spirits, wine, beer, toddy and all liquids consisting of or containing alcohol. Thus, the liquid containing alcohol will fall under the purview of 'liquor'. The liquid in the instant case contains 41% v/v ethyl alcohol which cannot be found in any medicine. Therefore, I have no hesitation to hold that, the bottle seized by the Excise dept. from the vehicle in possession of accused is nothing but the liquor.

32. The learned counsel for accused vehemently submitted that prosecution had not examined any independent witness from the locality and second panch witness. However, it is the case of prosecution that liquor was seized from the Mumbai-Agra High way. Moreover, it is not necessary for the prosecution to multiply witnesses after witnesses. In view of section 134 of Indian Evidence Act, 1872, (Section 139 of BSA) one witness is sufficient to prove the facts. Provided that, his testimony is firm and resolute. It is reiterated by Hon'ble Superior Courts that one solid witness can outweigh testimonies of ten infirm witnesses.

33. **Ld. APP argued that, the accused No. 1 is driver and accused No. being transporter or friend of accused No. 1 has found involved in this offence**. There are some other person I.e the owner of said muddemal liquor and person to whom it is to be delivered in Maharashtra but accused No. 1 and 2 keep mum and not provided the name of those persons. The prosecution therefore field charge sheet against present accused under section 65 (a), 65(e), 90 R/W 80,81,83,103 of Maharashtra Prohibition Act. It is therefore necessary to considered whether those sections are attracted to this matter or not;

> **Section *80.*** *Import, export, etc., of intoxicant by any person on account of another.— (1) Whenever any intoxicant, hemp, mhowra flowers or molasses are manufactured, imported, exported, transported, sold, or*

are possessed by any person on account of any other person and such other person knows or has reason to believe that such manufacture, import, export, transport, sale or possession is, on his account, the intoxicant, hemp, mhowra flowers or molasses, as the case may be, shall, for the of purposes of this Act, be deemed to have been manufactured, imported, exported, transported or sold by or to be in possession of, such other person.

(2) Nothing in sub-section (1) shall absolve any person from liability to any punishment under this Act for the unlawful manufacture, import, export, transport, sale or possession of such articles.

Section *81. Penalty for attempt or abetment.— Whoever attempts to commit or abets the commission of an offence under this Act shall, on conviction, be punished for such attempt or abetment with the same punishment as is provided for the principal offence.*

Section *83. Penalty for conspiracy.—When two or more persons agree—(a) to commit or cause to be committed any offence under this Act, or (b) to commit a breach or a condition of a licence, permit, pass or authorization, each of such persons shall, on conviction, be punished with 1[imprisonment for a term which shall not be less than three years but which may extend to five years or with fine which shall not be less than twenty-five thousand rupees but which may extend to fifty thousand rupees] or with both.*

> **Section 90.** Penalty for offences not otherwise provided for.— Whoever is guilty of any wilful act or intentional omission in contravention of the provisions of this Act, or any rule, regulation, or order thereunder or of any licence, permit, pass or authorization granted under this Act, and if such act or omission is not otherwise made an offence under this Act shall, on conviction, be punished with the imprisonment for a term which may extend to six months or with fine which may extend to 6[five thousand rupees] or with both.

34. Therefore from the plain reading of above sections 80,81,83 it is therefore appeared that, accused No.1 and 2 being driver and transporter/driver and the muddemal of Rs.1,16,16,000/- is not belonged to them personally but in furtherance of their common intention they imported, exported, transported and they are found in possession of said Muddemal Liquor for such other person in contravention of the provisions of Maharashtra Prohibition Act. As the present accused are found in possession with 52,800 bottles of "Royal Blue Molt Whiskey" of 180 ml each of Rs. 1,16,16,000/- which was only to be manufacture and to be sold in Goa State but illegally without any permit or licence found in Maharashtra State and as accused found in transportation of said liquor and therefore it is presume that, it means for sell etc. and they both are also committed conspiracy for such an offence and therefore they both accused has committed an offence punishable under s. 65(a), 65(e) read with section 80,81 and 83 of Maharashtra Prohibition Act. As discussed above that, the seized liquor is only to be manufactured and to be sell in Goa State only and therefore if that liquor found out side Goa State in any other State itself attracted an offence for breached of rules etc. and therefore attracted an offenec punishable under section 90 of the Maharashtra Prohibition Act against both the accused.

35. There is presumption under **Section 103** of Maharashtra Prohibition Act, that it has to be presumed without further evidence until the contrary is proved, that the accused person has committed an offence under this Act in respect of any intoxicant etc. if he is found possessing the same and unable to account satisfactory. I have already held that, the seizure of liquor from the possession from the house of accused is proved by the prosecution. The accused has not given any explanation about the alleged liquor in their possession. Thus, in view of the presumption of Section 103 of the Maharashtra Prohibition Act, I hold that, the accused have committed an offence of transporting, selling Liquor I.e intoxicant with some other person and conspire offence with those persons without any permit, any licence, etc. which is punishable under section 65(a), 65(e) read with section 80,81 and 83, 90 of Maharashtra Prohibition Act. Thus, in view of aforesaid discussion, I answer Points No. 1 to 3 in the affirmative.

36. As, I have arrived at the conclusion that, offence punishable under section 65(a), 65(e) read with section 80,81 and 83, 90 of Maharashtra Prohibition Act Is proved by the prosecution against accused, I hold that, they are liable to be punished for the same. Hence, I take pause to hear the accused on the point of quantum of sentence.

DISTRICT COURTS MAHARASHTRA
सत्यमेव जयते

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Date: 2026.04.06 13:26:06 +0530

(**S.S. CHHALLANI**)
Date:06.04.2026 Judicial Magistrate First Class,
(Court No. 1) Chandwad.

JUDGMENT RESUMED

37. Accused are in jail. They are produced through VC link https://meet.google.com/kpq-avxj-rwm?authuser=0&pli=1) Heard, accused personally on quantum of sentence.

38. Accused No. 1 Mohammad hamid Ali, submitted that, he has no previous antecedent, he has three children total eight members in his family and his family dependent upon him. Accused No. 2 Ansar Ahamad submitted that, he has no previous antecedent, he has three children total five members in his family and his family dependent upon him.

39. Heard, learned A.P.P. for the State and Shri. H.S. Jadhav, learned counsel appear for the accused. Learned APP submitted that, large quantity I.e Rs.1,16,16,000/- liquor of some other State is found in Maharashtra. The said liquor is banned fo selling in Maharashtra. But due to illegal sale of liquor large number of poor people are suffering from health problems and Government also lost their revenue. Hence, he prayed for maximum punishment as per law. Accused advocate submitted that they are the sole bread earner of their family, they are poor and driver. Counsel for the accused submitted that, this is the first offence of accused and considering the condition of the accused benefit of Probation of Offenders Act, be granted to them.

40. The Act is enacted for promotion and enforcement of and carrying into effect the policy of prohibition. The object and reasons is that the Government as a result of the reappraisal of its prohibition policy had taken certain steps to make it realistic and purposeful. Hence, in my view, the accused are not entitled for any leniency.

41. It is further important to mention here that, as the liquor has imposed the worst impact on the society in all respect including, physical, mental, and financial and has ruined several families. The flow and high frequency of registration of cases under Maharashtra Prohibition Act clearly shows that, despite ban, there is no material change in the scenario. The liquor has ruined the lives of many houses. The Maharashtra Prohibition

Act under **section 104-A** therefore prohibits the benefits of Probation of offender Act to the accused.

42. In view of **section 116** of Maharashtra Prohibition Act the case is tried as Summary case, while passing sentence, Section 262(2) of the Code of Criminal Procedure now section 285 of BNSS would not come in the way, as specific sentence is provided for the offence punishable under section 65(a), 65(e) read with section 80,81 and 83, 90 of Maharashtra Prohibition Act.

43. The minimum punishment is prescribed under law. In my view the Maharashtra Prohibition Act is the Special statute it over come the section 262 of the Criminal procedure Code now section 285 of BNSS and therefore I am of the view that, the accused are at least liable to suffer minimum punishment prescribed under the Special Statute I.e Maharashtra Prohibition Act. Hence, considering the account of matter I pass following order:

ORDER	
1.	Accused **1. Mohammad Hamid Ali and accused 2. Ansar Ahmmad are** hereby convicted for the offence punishable under section 65(a), 65(e), read with section 80,81 and 83, 90 of Maharashtra Prohibition Act, 1949 vide Sec. 278(2) of Bharatiya Nagarik Suraksha Sanhita, 2023.

2.	For the proved offence punishable under section 65(a) of Maharashtra Prohibition Act., 1949, accused is sentenced to suffer **Rigorous Imprisonment of three years** and to pay **fine of Rs.25,000/-**(Rs. Twenty Five thousand only) each and **in default** to pay the fine amount they shall further suffer R.I. for six months.
3.	For the proved offence punishable under section 65(e) of Maharashtra Prohibition Act., 1949, accused is sentenced to suffer **Rigorous Imprisonment of three years** and to pay **fine of Rs.25,000/-**(Rs. Twenty Five thousand only) each and **in default** to pay the fine amount they shall further suffer R.I. for six months.
4.	For the proved offence punishable under section 90 of Maharashtra Prohibition Act., 1949, accused is sentenced to suffer **Rigorous Imprisonment of six months** and to pay **fine of Rs.5,000/-**(Rs. Five thousand only) each and **in default** to pay the fine amount they shall further suffer R.I. for one month.
5.	All the sentences shall run concurrently.
6.	Accused to surrender their existing bail bonds.

7.	Muddmal remaining Liquor bottles are not claimed by any one and therefore those bottles to be disposed off according to law after an appeal period over as per law.
8.	The seized vehicle MH-43-Y-9399 be confiscated to the State after appeal period is over. The seized Mobile be return to its true owner after due verification and after taking hash value of photos etc. from said mobile and if true owner is not found then, it be disposed off as per law after an appeal period over and proceeds thereof be deposit to the Government account after an appeal period over.
9.	Accused No. 1 was produced before this court on 30.10.2025 and Accused No. 2 is in custody since 01.12.2025. Hence, they are entitled for the set off under section 468 of Bharatiya Nagarik Suraksha Sanhita, 2023
10.	Copy of this Judgment be given free of costs to the accused as per section 404 of the Bharatiya Nagarik Suraksha Sanhita, 2023 by sending digitally signed copy to both the accused on e-mail (nashikcp-mh@gov.in) to jail authority to be served on accused.

11. Though the accused is represented by learned advocate, but they are made known about their right to appeal to Hon'ble Sessions Court at Niphad, Dist-Nashik.

(Judgment pronounced in Open Court)

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Date: 2026.04.06 13:26:16 +0530

Chandwad.
DATE:06/04/2026

(S.S.CHHALLANI)
Judicial Magistrate First Class,
(Court No.1) Chandwad.

CERTIFICATE

I affirm that the contents of this P.D.F. file Judgment/Order are same, word to word, as per the original Judgment/Order.

Name of Stenographer	Namdev M. Shedge
Name of Court	C.J.J.D. & J.M.F.C., Chandwad
Date of Dictation	**On and Before** 06/04/2026
Judgment/order signed by the PO on	**06/04/2026**
Judgment/order digitally signed by the PO on	**06/04/2026**
Judgment/order uploaded on	**06/04/2026**