

KABG070021242022



**IN THE COURT OF THE JMFC III, BELAGAVI.
AT: BELAGAVI**

**PRESENT: SMT. PALLAVI ADINATH PATIL,
B.COM., L.L.B,
JMFC III, BELAGAVI.**

DATED THIS THE 10th DAY OF DECEMBER, 2025

CC. No.1909/2022.

**The State, Rep by
Railway Police Station, Belagavi.**

.... Complainant

(By Assistant Public Prosecutor)

Versus

**Anumul Satyanarayan Laxminarayan
Age: 43 years,
R/o: H. No.4/48, Jalakani Street,
Bestavar Peth, Prakasham,
Andra Pradesh.**

....Accused

(By Shri. A. H. Gangai, Advocate for Accused)

1	The date of commission of the offence	27.08.2022.
2	Date of report of offence	27.08.2022.
3	Name of the complainant	Shri. Basappa Koniavar.
4	The offences charged for	U/Sec.32, 34 of K.E. Act and Sec.273 of IPC.
5	Date of appearance of the accused before the Court	27.08.2022.
6	Date of release of accused on bail	30.08.2022.
7	Plea of the accused	Pleaded not guilty
8	Date of recording of evidence	06.07.2024.
9	Date of closing of evidence	13.10.2025.
10	Opinion of the judge	As per final order.

J U D G M E N T

The Police Sub-Inspector of Railway P.S., Belagavi, has filed this charge sheet against the accused for the offences punishable under Sections 32, 34 of Karnataka Excise Act (herein after for brevity called as K. E. Act).

2. The brief facts of the prosecution case in nutshell:-

That, on 27.08.2022 within the jurisdiction of Belagavi Railway Police Station, when CW-1 was on patrolling duty on train No.07357 Wasko-Welankani Express, from Casal Rock-Belagavi along with CW-4 to 7, when the said train was proceeding near the Thinnai Ghat Railway station, in the General coach of the said train, the accused was found in illegal possession and transportation of Goa State liquor i.e. 35 bottles of Pilot XXX company's Rum of 750 ml each, 20 bottles of Gold & Black XXX company's Rum of 750 ml each in total 41 litter and 250 ml worth Rs.6,050/- without having valid license or permit. Thereafter, the CW-1 has drawn the Seizure Panchanama at Platform No.2 of Londa Railway Station in the presence of Panchas along with Police Staff and has seized the alleged liquor. So this being the case, CW-1 lodged the first information against accused for the offences punishable Under Sections 32, 34 of Karnataka Excise Act. Same is registered in Crime No.28/2022 by the CW-10 and sent the First Information Report to this Court.

3. On the basis of FIR and materials available on record, CW-10 recorded statements of witnesses and investigated the case. After conclusion of investigation, he come to the opined that, the accused has committed offences as alleged, as such he has filed

charge sheet against accused for the offences punishable Under Sections 32, 34 of Karnataka Excise Act.

4. The accused arrested and has produced before this Court. The said accused was remanded to judicial custody and was released on bail at crime stage itself. After filing of charge sheet, cognizance for the offences punishable Under Sections 32, 34 of K. E. Act was taken. The presence of accused has secured by issuing summons and the accused has put his appearance through his L/Advocate. The prosecution papers were supplied to accused as enumerated Under Section 207 of Code of Criminal Procedure. It is important to note here that, as per materials available on record, accused was in possession of noxious drinks. Accordingly, this court has framed charges for the offences punishable Under Section 32, 34 R/w. 43 of K.E Act and Sec.273 of I.P.C. and same is read over and explained to the accused in the language known to him. The accused pleaded not guilty and claims to be tried.

5. During trial prosecution has examined 5 witnesses as PW-1 to 5. In support of oral evidence, the prosecution got marked 11 documents as Ex.P-1 to 11 and two material objects are got marked as M.O-1 & 2 along with sub-markings and closed its side. Thereafter, the examination of accused has been recorded as per the provisions of Section 313 of Cr.P.C by explaining incriminating

evidence adduced against him. The accused denied the same and has not produced any oral or documentary defence evidence on his behalf.

6. Upon marking of all documents, it is observed that the material witnesses i.e., the pancha witnesses had completely turned hostile to the prosecution case. Therefore, I am of the opinion that, there will be no purpose would be served, if remaining witnesses are summoned or examined. Thus, by rejecting the prayer of the learned APP, the remaining witnesses i.e., CW-5 to 9 were dropped from the proceedings.

7. On the basis of charge sheet allegations, oral and documentary evidence adduced by the prosecution, the following points arise for consideration of this Court are :-

1. Whether the prosecution proves beyond all reasonable doubt that on 27.08.2022 within the jurisdiction of Belagavi Railway Police Station, when CW-1 was on patrolling duty on train No.07357 Wasko-Welankani Express, from Casal Rock-Belagavi, in the General coach of the said train, the accused was found in illegal possession and transportation of Goa State liquor i.e. 35

bottles of Pilot XXX company's Rum of 750 ml each, 20 bottles of Gold & Black XXX company's Rum of 750 ml each in total 41 litter and 250 ml without having valid license or permit knowingly well that the same was noxious drink and its legal consequences and thereby committed an offence punishable U/sec.273 of IPC and within the cognizance of this Court?

2. Whether the prosecution further proves beyond all reasonable doubt that, on the above said date, time and place, the accused was found in illegal possession of aforementioned liquor without having valid license or permit and thereby committed an offence punishable U/sec.34 of Karnataka Excise Act and within the cognizance of this Court?

3. Whether the prosecution further proves beyond all reasonable doubt that on the above said date, time and place, the accused was found in illegal possession of

aforementioned liquor for the purpose of sale without having valid license or permit and thereby committed an offence punishable U/sec.32 of Karnataka Excise Act and within the cognizance of this Court?

4. What Order?

8. Heard the advocate appearing for accused and learned APP. Perused oral and documentary evidence adduced by the prosecution and my findings on the above points are as under :-

Point No.1: In the Negative,

Point No.2: In the Negative,

Point No.3: In the Negative,

Point No.4: As per final order

for the following:

REASONS

9. POINT No.1 to 3: As these points are inter connected with each other, to avoid repetition of facts and evidence, this Court has taken up these points together for common discussions.

10. It is the allegation set forth against the accused that, on 27.08.2022 within the jurisdiction of Belagavi Railway Police Station, when CW-1 was on patrolling duty on train No.07357 Wasko-Welankani Express, from Casal Rock-Belagavi, in the General coach of the said train, the accused was found in illegal possession and transportation of Goa State liquor i.e. 35 bottles of Pilot XXX company's Rum of 750 ml each, 20 bottles of Gold & Black XXX company's Rum of 750 ml each in total 41 litter and 250 ml without having valid license or permit. Therefore, accused has committed offences as stated above.

11. So as to prove the guilt of the accused, the prosecution has examined PW-1 to 5 and documentary evidence as Ex.P-1 to 11 and Mo. No.1 & 2 along with sub-markings.

12. So as to bring home the guilt of the accused, the prosecution has to first prove that, the seized liquid contained in bottles are liquor and same are noxious. To prove the said fact, the prosecution is relied on the evidence of **complainant/CW-1 i.e. Shri. Basappa G. Koniavar, who is examined as PW-1.** I have perused the evidence of PW-1, Wherein, he deposed as per Raid Panchanama and First information statement. Then, after his part of investigation, he transferred the case papers to CW-10 for further investigation. He got marked Ex.P-1 to 3 and

Mo. No.1 & 2 along with sub-markings. PW-1 has cross examined by the learned advocate for accused, but he denied all suggestions put by the learned advocate for the accused and supported to prosecution case.

13. Further prosecution has examined the **CW-4 Shri.Shankaranand Y. Pujeri as PW-2**. PW-2 is the police official who accompanied the CW-1 in conducting raid and who was present at the time of Seizure of material objects from the possession of accused. PW-2 has reiterated the facts as deposed by PW-1. The signature of PW-2 present on the Ex.P-2 is marked as Ex.P-2(b). Pursuant to the chief examination, PW-2 has cross examined by the Learned Advocate for accused, but he has denied all suggestions and supported the prosecution version.

14. The next aspect which the prosecution has to prove is that, the seized liquor is more than prescribed limit as prescribed under the Karnataka Excise Act & Rules. As per Rule 21 of Karnataka Excise (Possession, transport, ETC) Rules 1967, a person can possess and transport up to 2.3 liters of Whiskey and other such liquor. Here in the present case, CW-1/police have seized total 41.250 liters of Goa State liquor, which is more than prescribed limit. Hence, the prosecution is able to prove that, quantity of liquid alleged to be

liquor, in possession of the accused was more than the prescribed limits under the provisions of Karnataka Excise Act & Rules.

15. It is relevant to state that, so as to connect the accused with the aforementioned liquor, the prosecution has to prove the Seizure Mahazar. Further have to prove that the accused was in possession of the alleged liquor which is noxious and knowingly the accused was in possession. To prove this, prosecution has relied upon Raid Panchanama which is got marked as Ex.P-2. To prove the Raid Panchanama, the prosecution has examined **CW-3 Shri. Sadhik B. Pathan as PW-3 and CW-2 Shri. Aslam A. Pathan as PW-5**, who are the seizure panchas of Ex.P-2. Wherein PW-3 & 5 have completely turned hostile to the prosecution case and have deposed before this Court that :-

“They do not know the accused present before the Court, CW-1 has not taken them to anywhere and has not conducted any raid in their presence and no material objects were seized. Further deposed that, about 3 years ago the police have obtained their signatures on one white blank paper and they do not even know what was written in it.”

The PW-3 and 5 have recognized their signatures available on notices given to them and on the raid panchanama which are got marked as Ex.P-1(b), Ex.P-1(c) and Ex.P-2(c), Ex.P-2(d) respectively. Though the PW-3 and 5 have completely turned hostile to the prosecution case, they were fully cross examined by the L/APP. But nothing has been elicited from their mouth to help the prosecution case.

16. Further prosecution has examined **CW-10 Shri. S. Venkatesh as PW-4. Who is the Investigation Officer.** He deposed in his chief examination that as on 27.08.2022 he received the complaint from CW-1 and has registered the same in Crime No.28/2022 and submitted the FIR to this Court. Further he deposed about the conduct of arrest procedure, submission of PF, recording of statements, receiving of FSL report and after the conclusion of the investigation, he filed the charge-sheet against the accused. Pursuant to the chief examination, PW-4 has cross examined by the Learned Advocate for accused, but he denied all suggestions and supported the prosecution version.

17. Further it is important to note that, in any of prosecution under Section 32 and 34, it may be presumed until contrary is proved that, the accused have committed the offence punishable under that section in respect of,

1. Any intoxicant; or
2. xxxxxxxx
3. xxxxxxxx

For the possession of which, he is unable to account satisfactorily. It is further argued that, the accused must prove his innocence and he has not committed any offence as alleged. I have closely perused the Section 40, on plain perusal, it is manifest that to raise the presumption under Section 40, the possession of the liquor by the accused should be proved beyond all reasonable doubt. Thus, the presumption available under Section 40 of Karnataka Excise Act can be drawn only when prosecution proves that accused was in possession of seized liquor. To prove this the prosecution relied on evidence of PW-3 and PW-5 who are authors of Ex.P-2. Wherein, upon perusal of evidence of PW-3 and 5 apart from identification of their signature on Ex.P-1 & 2, nothing worth has been deposed by PW-3 & 5. As such, the prosecution has failed to prove Ex.P-2 and just because PW-1 & 2 have stated that, they have seized liquor from the possession of accused, one cannot presumed in the absence of corroboration by the independent witnesses, the things spoken by police officials as true. Therefore, in the absence of strict proof the Mo. No.1 & 2 sent for chemical analysis are liquor, it cannot be said that the remaining liquid was also liquor one.

18. Here in this case, it is important to note here that, prosecution did not deposed about the coach number in which the accused was traveling in the said Train at the time of alleged crime. Further PW-1 has not made any efforts to secure the train ticket of the accused in order to show that the accused was traveling in the above said train as on the date of alleged crime. It is also important to note here that, as per prosecution the accused was found in illegal possession of Goa State liquor without having valid license or permit while PW-1 was checking in the train and when the said train arrived at Londa Station they have deboarded along with accused and material objects, but to prove the same, no independent witnesses i.e., co passengers of the said train were made as charge-sheet witnesses. Further, the bags in which the said liquor bottles were found have also not been produced before this Court.

19. Moreover, the prosecution has not proved the recovery of seized material objects and crime spot. Thus, just because PW-1 & 2 have stated that, they have seized liquor from the possession of accused, one cannot presume in the absence of independent corroborative piece of evidence, the things spoken by PW-1 & 2 as true. Since, the authors of Ex.P-2 i.e. the Seizure Mahazar Panchas have turned hostile and hence this Court cannot conclude that the police have actually seized

the alleged liquor from the possession of the accused. In view of the discussions made above, I am of the opinion that, the prosecution has miserably failed to prove its case and bring home the guilt of the accused. **Accordingly, this Court answers points No.1 to 3 in the Negative.**

20. POINT No.4: In view of discussions and conclusion arrived at points No.1 to 3, the accused is entitled for acquittal. Hence, this Court proceeds to pass the following;

ORDER

Acting Under Section 248(1) of Criminal Procedure Code, the accused is acquitted for the offences punishable Under Sections 32, 34 of the Karnataka Excise Act and Sec.273 of IPC.

Bail bonds and surety bonds of accused is stands cancelled after period of 6 months from the date of this Judgment as per Sec.437A of Cr.P.C.

M.O.1 and 2 are being worthless are ordered to destroy after lapse of appeal period.

(Dictated to the Stenographer directly on computer, typed by her, corrected by me and then pronounced in the open court on this the 10th day of December 2025)

Sd/-

**(Smt. Pallavi Adinath Patil)
JMFC-III Belagavi.**

ANNEXURES

LIST OF WITNESSES EXAMINED FOR THE PROSECUTION

PW.1	Shri. Basappa G. Koniavar.
PW.2	Shri. Shankaranand Y. Pujeri.
PW.3	Shri. Sadhik B. Pathan.
PW.4	Shri. S. Venkatesh.
PW.5	Shri. Aslam B. Pathan.

LIST OF DOCUMENTS MARKED FOR THE PROSECUTION

Ex.P-1, 2	Notices to Pancha witnesses.
Ex.P-1(a)	Sign of PW-1.
Ex.P-1(b)	Sign of PW-3.
Ex.P-1(c)	Sign of PW-5.
Ex.P-2	Raid Panchanama.
Ex.P-2(a)	Sign of PW-1.
Ex.P-2(b)	Sign of PW-2.
Ex.P-2(c)	Sign of PW-3.
Ex.P-2(d)	Sign of PW-5.

Ex.P-3	Photograph.
Ex.P-4	Certificate U/sec.65-B of I. E. Act.
Ex.P-4(a)	Sign of PW-4.
Ex.P-5	Complaint.
Ex.P-5(a)	Sign of PW-4.
Ex.P-6	FIR.
Ex.P-6(a)	Sign of PW-4.
Ex.P-7	Two photographs.
Ex.P-7(a)	Sign of PW-4.
Ex.P-8	Submission of CW-8 & 9.
Ex.P-8(a)	Sign of PW-4.
Ex.P-9	Receipt of FSL.
Ex.P-9(a)	Sign of PW-4.
Ex.P-10	FSL report.
Ex.P-10(a)	Sign of PW-4.
Ex.P-11	Letter to Excise Commissioner.
Ex.P-11(a)	Sign of PW-4.

LIST OF WITNESSES EXAMINED FOR THE ACCUSED:-

- Nil-

LIST OF DOCUMENTS MARKED FOR THE ACCUSED:-

- Nil-

LIST OF MATERIAL OBJECTS MARKED FOR THE PROSECUTION:-

M.O.-1 & 2	Sample bottle.
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Sd/-

**(Smt. Pallavi Adinath Patil)
JMFC-III Belagavi.**