

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Revision Petition No. 216/2026

1. Rajesh S/o Kalu Ram, Aged About 30 Years, R/o Sevna Police Station Kotwali District Banswara. (At Present Central Jail Udaipur)
2. Dharma S/o Roopa, Aged About 28 Years, R/o Dhamniya Police Station Kotwali District Banswara. (At Present Lodged Central Jail Udaipur)

----Petitioners

Versus

State Of Rajasthan, Through Pp

----Respondent

For Petitioner(s)	:	Mr. Devendra Sanwalot
For Respondent(s)	:	Mr. NS Chandawat, PP

HON'BLE MR. JUSTICE FARJAND ALI

Order

11/02/2026

1. The instant criminal revision petition under Section 397/401 of the CrPC has been preferred by the petitioner being aggrieved of the judgment dated 02.02.2026 passed by the learned Additional Sessions Judge, Banswara in Criminal Appeal No.09/2021, whereby the learned appellate court affirmed the order of conviction and sentence dated 14.12.2020 passed by learned Addl. Chief Judicial Magistrate, Banswara in Regular Criminal Case No.513/2011 whereby the petitioner was convicted and sentenced for maximum imprisonment of three years' under Sections 457 & 380 of IPC with a fine of Rs.3,000/- and in default of payment to further undergo 6 months SI.

2. Bereft of elaborate details, facts relevant and essential for disposal of the instant criminal revision are that on 14.02.2009 at about 7:00 PM, complainant Hemant Soni S/o Sheetal Das Soni submitted a written report alleging therein that he is having a mobile shop near collected office. On 23.01.2009, when he went to shop in morning, he found that locks were broken and when he entered the mobiles and other articles were stolen. On the basis of the report, the police authority lodged an FIR bearing No.85/2009 for offence under Sections 457, 380 of IPC and after investigation, charge-sheet was filed.

4. The Learned Magistrate framed charges against the petitioner for the above offences and upon denial of guilt by him, commenced the trial. During the course of trial, the prosecution in order to prove the offences, examined as many as 4 witnesses and exhibited 6 documents. The accused, upon being confronted with the prosecution allegations, in his statement under Section 313 CrPC, denied the allegations and claimed to be innocent. No evidence was adduced from defence side. Then, after hearing the learned Public Prosecutor and the learned Defence Counsel and upon meticulous appreciation of the evidence, learned trial court convicted the accused for offences under Sections 457 and 380 of the IPC vide judgment dated 14.12.2020. Aggrieved by the judgment of conviction, he preferred an appeal, which was dismissed by the learned appellate court vide judgment dated 02.02.2026 while affirming the judgment of conviction and order of sentence. Hence, this revision petition is filed before this court.

5. After arguing the case on merits to some extent, learned counsel appearing for the petitioner submits that he will not assail conviction of the petitioner and confines his arguments to the alternative prayer of granting the benefit of probation to the petitioner. He has no criminal antecedents and it was the first criminal case registered against him. This was one off incident and there is every possibility that the petitioner shall be reformed if he is given a chance. He has remained in custody for some days during trial and at present he is serving the sentence. With these submissions, learned counsel prays that by taking a lenient view, the petitioner may be given the benefit of probation.

6. Learned public prosecutor has, of course, been able to defend the case on merits but does not refute the fact that the petitioner has remained behind the bars for some time and that it was the first criminal case registered against the petitioner.

7. Since the revision petition against conviction is not pressed and after perusing the material, nothing is noticed which requires interference in the finding of guilt reached by learned trial court and affirmed by the appellate court, this court does not wish to interfere in the judgment of conviction. Accordingly, the judgment of conviction is maintained.

8. As far as the question of quantum of sentence is concerned, it is worthwhile to note that :

(1) The case involves the offences under Sections 457 and 380 of the IPC, i.e. trespassing and theft from a shop.

(3) It was the first criminal case registered against the petitioner and he has no criminal antecedents.

(4) There is no report regarding any untoward behaviour of the petitioner during the period of custody and during the period of bail.

9. In the peculiar facts and circumstances of the case and considering the aforementioned mitigating circumstances, this court is of the considered opinion that a reformatory approach should be adopted in the present case. Thus, this court while taking lenient view towards petitioner, thinks it fit that instead of sentencing him at once to any punishment, he should be released under Section 4 of the Probation of Offenders Act, 1958.

10. Accordingly, the revision petition is allowed in part. The judgment of conviction dated 14.12.2020 passed by learned Addl. Chief Judicial Magistrate, Banswara in Regular Criminal Case No.513/2011 as well as the judgment in appeal dated 02.02.2026 passed by the learned Additional Sessions Judge, Banswara in Criminal Appeal No.09/2021 are affirmed. However, the order of sentence stands modified in the manner that the petitioner is ordered to be released from prison forthwith on probation under Section 4 of the Probation of the Offenders Act upon his furnishing a personal bond in the sum of 25,000/- with one surety in the like amount, for a period of two years with an undertaking to appear and receive sentence as and when called upon by the court, in case of default of any term and condition of the probation bond

and to keep peace and be of good behaviour during such period of two years from the date of his entering into such bond. The bonds be furnished before the learned trial Court. The amount of fine as imposed by the trial Court shall be deposited by the petitioner within a period of 90 days from the date of this order. The petitioner is in custody. The Registrar Judicial shall immediately forward the release order to the concerned prison. He shall be released on probation forthwith, if not wanted in any other case, upon satisfying the aforementioned requirements.

11. The application seeking suspension of sentence and all other pending applications are disposed of.

(FARJAND ALI),J