

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

S.B. Criminal Revision Petition No. 312/2026

1. Kesar Singh S/o Naanji Harmor, Aged About 32 Years,
Karanpuriya Police Station Sardar, District Udaipur
2. Hanjaram S/o Maganlal Damor, Aged About 27 Years,
Karcha Police Station Khervada, District Udaipur

-----Petitioners

Versus

State Of Rajasthan, Through Pp

-----Respondent

For Petitioner(s)	:	Mr. Dilip Choudhary Mr. Abhishek Mehta
For Respondent(s)	:	Mr. Surendra Bishnoi, PP

HON'BLE MR. JUSTICE FARJAND ALI

Order

24/02/2026

1. The petitioners are not in custody. Therefore, the defect pointed out by the Registry is overruled.
2. The present criminal revision petition under Sections 397/401 of the Code of Criminal Procedure, 1973 has been preferred by the petitioners assailing the judgment dated 30.01.2026 passed by the learned Additional Sessions Judge, Dungarpur in Criminal Appeal No.11/2020, whereby the appeal preferred by the petitioners against the judgment dated 26.04.2019 passed by the learned Judicial Magistrate, Seemalvada, District Dungarpur in Criminal Case No.105/2009 was dismissed. By the said judgment dated

26.04.2019, the learned trial court convicted the petitioners for the offence under Section 19/54 of the Rajasthan Excise Act and sentenced them to undergo simple imprisonment for a period of three years along with a fine of Rs.20,000/- each, and in default of payment of fine, to further undergo simple imprisonment for three months.

3. Briefly stated, the facts necessary for the disposal of the present revision petition are that upon receiving information from an informant which was found to be credible, the police party proceeded towards the vicinity of Dhambola Bus Stand and established a checking point to inspect vehicles passing through the area. At about 4:15 A.M., a mini truck coming from the direction of Jhothari was intercepted by the police party. The colour and description of the said vehicle corresponded with the information received from the informant. Upon inquiry, the driver disclosed his name as Kesar Singh and the co-passenger disclosed his name as Hanjaram.
4. Upon being questioned regarding the goods being transported in the vehicle, the occupants stated that the vehicle was carrying foreign liquor. When asked to produce the requisite licence or permit for transporting the said liquor, the accused persons admitted that they were not in possession of any valid licence or authorization. Upon inspection of the vehicle, the police recovered 420 cartons of

Falcon Super Strong Beer, each carton containing 12 bottles, and 163 cartons of Tomkat Fine Whisky (180 ml bottles), each carton containing 48 bottles. Consequently, an FIR came to be registered against the petitioners for the offence under Section 19/54 of the Rajasthan Excise Act and, after completion of investigation, a charge-sheet was filed against them.

5. The learned trial court framed charges against the petitioners for the aforesaid offence. The petitioners denied the allegations and claimed trial. During the course of trial, the prosecution examined its witnesses and exhibited relevant documentary evidence. The accused persons, in their statements recorded under Section 313 CrPC, denied the allegations and claimed innocence. No defence evidence was adduced. After hearing the arguments and upon appreciation of the material available on record, the learned trial court convicted and sentenced the petitioners vide judgment dated 26.04.2019.
6. Being aggrieved by the judgment of conviction and sentence, the petitioners preferred an appeal before the learned appellate court, which came to be dismissed vide judgment dated 30.01.2026 affirming the findings recorded by the learned trial court. Hence, the present revision petition.
7. Heard learned counsels present for the parties and gone through the materials available on record.

8. During the course of arguments, learned counsel for the petitioners, after addressing the court on merits to some extent, submitted that he does not wish to press the revision petition so far as the challenge to the conviction is concerned. He confined his submissions only to the question of sentence and prayed that the benefit of probation be extended to the petitioners. It is submitted that the petitioners are young persons belonging to economically weaker sections and have already remained in custody for some period during the course of trial. It is further submitted that this is the first criminal case registered against them and, therefore, taking a lenient view, the petitioners deserve to be extended the benefit of probation.
9. Learned Public Prosecutor, while supporting the judgments passed by the courts below on merits, did not dispute the factual position that the petitioners had remained in custody for some period during trial.
10. Since the revision petition challenging the conviction has not been pressed, this Court has examined the material available on record and finds no perversity, illegality, or manifest error in the findings recorded by the learned trial court and affirmed by the learned appellate court regarding the guilt of the petitioners. Accordingly, the judgment of conviction does not warrant interference and the same is maintained.

11. However, so far as the question of sentence is concerned, this Court finds that the courts below did not advert to the question of extending the benefit of probation to the petitioners in the light of the provisions contained in the Probation of Offenders Act, 1958. The offence in question is punishable with a sentence which does not exceed the limit prescribed for the applicability of Section 4 of the Probation of Offenders Act, thereby enabling the court to release the offender on probation of good conduct instead of sentencing him to imprisonment.
12. The record further reveals that the petitioners belong to a socially and economically weaker background and are residents of the tribal belt of the Aravalli region. They have already undergone the ordeal of criminal proceedings for a prolonged period.
13. In such circumstances, the courts below were required to consider the applicability of the beneficial provisions of the Probation of Offenders Act. Section 361 CrPC casts a mandatory duty upon the court to record special reasons where the benefit of probation is not extended in cases where such benefit is otherwise permissible. However, neither the trial court nor the appellate court has recorded any reasons as to why the petitioners were not considered for release on probation.

14. Having regard to the nature of the offence, the socio-economic background of the petitioners, and the long passage of time during which the petitioners have faced the rigours of criminal proceedings, this Court is of the considered opinion that the ends of justice would be adequately met if the petitioners are extended the benefit of probation instead of being required to undergo the sentence of imprisonment.
15. In view of the peculiar facts and circumstances of the case and the mitigating factors noticed above, this Court deems it appropriate to adopt a reformatory approach. Accordingly, while maintaining the conviction of the petitioners, it is considered just and proper that instead of sending them to prison to serve the remaining sentence, they be released on probation of good conduct under Section 4 of the Probation of Offenders Act, 1958.
16. Consequently, the revision petition is partly allowed. The judgment of conviction dated 26.04.2019 passed by the learned Judicial Magistrate, Seemalvada, District Dungarpur in Criminal Case No.105/2009, as affirmed by the judgment dated 30.01.2026 passed by the learned Additional Sessions Judge, Dungarpur in Criminal Appeal No.11/2020, is maintained. However, the order of sentence is modified to the extent that the petitioners are ordered to be released on probation under Section 4 of the Probation of Offenders Act,

1958, upon their furnishing a personal bond in the sum of Rs.25,000/- each with one surety in the like amount before the learned trial court for a period of one year, undertaking to appear and receive sentence when called upon in case of breach of the conditions of the bond and to maintain peace and good behaviour during the said period.

17.The bonds shall be furnished before the learned Judicial Magistrate, Seemalvada, District Dungarpur.

18.Since the petitioners are presently on bail, they shall stand released on probation forthwith, if not required in any other case, upon compliance with the above conditions.

19.The application seeking suspension of sentence as well as all other pending applications stand disposed of.

20.The Registrar (Judicial) shall communicate this order to the concerned Jail Authorities for necessary compliance.

(FARJAND ALI),J