

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

S.B. Criminal Appeal No. 100/1999

State of Rajasthan

----Appellant

Versus

Nanuram son of Parmeshwari Lal, resident of Ward No.16, Keshri
Singhpur District Ganganagar

----Respondent

For Appellant(s)	:	Mr. Surendra Bishnoi, AGA
For Respondent(s)	:	Mr. Vikram Sharma, Amicus Curiae

HON'BLE MR. JUSTICE FARJAND ALI

Judgment

22/04/2026

1. The instant appeal has been preferred by the State of Rajasthan under Section 377 of the Code of Criminal Procedure seeking enhancement of sentence against the judgment and order dated 12.12.1997 passed by the learned Special Judge, Essential Commodities Act Cases, Sri Ganganagar in Criminal Case No. 9/1994, whereby the accused–respondent, namely Nanuram son of Parmeshwari Lal was convicted for the offence punishable under Section 3/7 of the Essential Commodities Act, 1955, but was extended the benefit of probation under Section 4 of the Probation of Offenders Act instead of being awarded substantive sentence.

2. Briefly stated, the facts of the case leading to the filing of the present appeal are that during inspection of the shop of the accused–respondent, a substantial quantity of diesel and kerosene oil was found stored, for which the accused failed to produce any valid licence or authorization. Upon inquiry, the same was found to

be in contravention of the relevant Control Orders issued under the Essential Commodities Act. Consequently, proceedings were initiated against the accused, and after completion of trial, the learned trial court recorded conviction under Section 3/7 of the Essential Commodities Act; however, instead of imposing a sentence of imprisonment, the accused was released on probation.

3. Having regard to the fact that the present appeal is of considerable antiquity and further noticing that the learned counsel representing the respondent is not available, this Court deems it appropriate, in the interest of justice, to appoint Mr. Vikram Sharma, Advocate, as Amicus Curiae to assist the Court on behalf of the respondent–accused under the Free Legal Aid Scheme of the Rajasthan State Legal Services Authority. The remuneration payable to the learned Amicus Curiae shall be borne by the Rajasthan State Legal Services Authority in accordance with the applicable Rules.

4. Learned Public Prosecutor appearing for the State has assailed the impugned order of sentence contending that the learned trial court has committed a serious error in extending the benefit of probation to the accused despite recording conviction under Section 3/7 of the Essential Commodities Act. It is submitted that the offence in question is an economic offence affecting the public at large and carries a minimum prescribed sentence, and therefore, the grant of probation is wholly unjustified. It is further urged that the sentence awarded is grossly inadequate and does not meet the ends of justice, and thus, the same deserves to be enhanced.

5. Per contra, learned Amicus Curiae appearing on behalf of the respondent–accused has supported the impugned order and submitted that the learned trial court has exercised its discretion judiciously in extending the benefit of probation. It is contended that the accused is a first-time offender, has faced the agony of trial for a considerable period, and no previous criminal antecedents have been brought on record. It is further submitted that the reformatory approach adopted by the learned trial court does not warrant interference, particularly in an old matter, and that the appeal filed by the State deserves to be dismissed.

6. Heard learned Public Prosecutor for the State and learned Amicus Curiae for the respondent–accused. Perused the material available on record. This Court now proceeds to examine the correctness, legality and propriety of the order passed by the learned trial court in the matter of sentence.

7. What emanates from the record is that the respondent was prosecuted for committing an offence under Section 3/7 of the Essential Commodities Act and, after a full-fledged trial, came to be convicted for having in his possession essential commodities, namely diesel and kerosene, without valid authorization. The accused was thereafter heard on the question of sentence. Considering the submissions that the accused had faced the rigours of a protracted trial and had suffered manifold difficulties, both financial and mental, and taking into account the overall circumstances of the case as well as his criminal antecedents, the learned trial court found it appropriate to extend the benefit of

probation to him instead of sentencing him to imprisonment forthwith.

8. This Court is of the considered view that the question of sentence lies primarily within the judicial discretion of the convicting court, to be exercised in light of the settled principles of law and the statutory framework, including the provisions of Sections 360 and 361 of the Code of Criminal Procedure and Sections 3, 4 and 5 of the Probation of Offenders Act. Undisputedly, the respondent had no prior criminal antecedents and the present case constitutes his first offence. It is also not in dispute that the offence in question does not carry a sentence exceeding seven years so as to exclude the applicability of the probationary provisions.

9. In the considered opinion of this Court, the learned trial court has adopted a reformatory approach, which is well recognized and embedded in the criminal jurisprudence of our country, particularly in cases involving first-time offenders where the possibility of reformation cannot be ruled out. The discretion exercised by the learned trial court does not appear to be arbitrary, perverse or contrary to law. No circumstance has been brought to the notice of this Court which may warrant interference in appellate jurisdiction on the question of sentence. Accordingly, no error can be said to have been committed by the learned trial court in extending the benefit of probation to the respondent. The appeal, therefore, deserves to be dismissed.

10. Accordingly, the appeal, being devoid of merit, stands dismissed.

11. All pending applications, if any, shall stand disposed of.
12. The record of the case be sent back to the learned trial court forthwith.
13. The learned Amicus Curiae shall be entitled to remuneration as per the Rules of the Rajasthan State Legal Services Authority.

(FARJAND ALI),J

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