

**Prakash Vs. State**

**Prakash Vs. State**

**SooperKanoon Citation :** [sooperkanoon.com/760951](http://sooperkanoon.com/760951)

**Court :** Rajasthan

**Decided On :** May-18-1993

**Reported in :** 1993WLN(UC)89

**Judge :** N.L. Tibrewal, J.

**Appeal No. :** S.B. Cr. Revision Petition No. 115 of 1993

**Appellant :** Prakash

**Respondent :** State

**Judgement :**

**N.L. Tibrewal, J.**

1. This revision petition Under Section 397 read with Section 401 Cr.P.C. is directed against the judgment dated May 5, 1993 of Addl. District & Session Judge, Behror in Cr. Appeal No. 112/92(32/86), where by the conviction and sentence passed against the petitioner Under Section 16/54 of the Rajasthan Excise Act were maintained.

2. I need not give the facts in detail, as the only prayer made by the learned Counsel for the petitioner is that taking into consideration all the facts and circumstances of the case, the petitioner should be given the benefit of probation. The learned Counsel submits that 70 bottles of illicit liquor were recovered from

the possession of the petitioner as per the prosecution case on 29.1.1984 i.e. more than 9 years ago. He further submits that the learned courts below have not considered as to why probation be not given to the petitioner. He also pointed out a number of judgments in which the accused have been given the benefit of probation even in cases where illicit liquor has been recovered. He further submits that the petitioner has already remained in jail for 15 days.

3. Taking into consideration all the facts and circumstances of the case, including the nature of the offence and the character of the offender, it is expedient to release him on probation of good conduct.

4. It is, therefore, directed that the petitioner Prakash S/o Shri Shyo Narayan shall be released on his entering into a bond in the sum of Rs. 5,000/- (Rs. Five Thousand) with one surety in the like amount to appear and receive sentence as and called upon during the period of one year and in the meantime to keep peace and be of good behaviour. The bail bonds shall be submitted to the satisfaction of the trial Magistrate. On his furnishing bail bond, the petitioner shall be released, if not wanted in some other case. The revision petition is decided accordingly.