

**Daulat Vs. State of Rajasthan**

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**SooperKanoon Citation :** [sooperkanoon.com/769871](http://sooperkanoon.com/769871)

**Court :** Rajasthan

**Decided On :** Nov-19-1985

**Reported in :** 1985WLN(UC)562

**Judge :** Shyam Sunder Byas, J.

**Appeal No. :** S.B. Criminal Revision No. 165 of 1979

**Appellant :** Daulat

**Respondent :** State of Rajasthan

**Judgement :**

**Shyam Sunder Byas, J.**

1. Accused Daulat was convicted Under Section 4(2) of the Rajasthan Prohibition Act, 1969 and was sentenced to one years rigorous imprisonment and a fine Rs. 200/- by the learned Additional Munsif and Judicial Magistrate, Banner, by his judgment dated June 30, 1978. The accused went in appeal which was heard and decided by the learned Sessions Judge Balotra, on May 10,1979. The learned Sessions Judge partly allowed the appeal. He maintained the conviction of the accused but reduced the sentence of imprisonment from one year to six months. The sentence of fine was maintained.

2. In view of the concurrent findings of the courts below Mr. Singhi, learned counsel appearing for the accused did not challenge his conviction. The only submission by him is that the Rajasthan Prohibition Act, 1969 has been repealed and is now a dead law. No previous conviction stands at the discredit of the accused. The offence was committed long ago in 1978. Only 40 bottles of illicit liquor were found in possession of the accused. After a lapse of 8 years, it would not be proper to send back the accused to jail. It was committed that the benefit of Probation of good conduct should be extended to the accused.

3. The learned Public Prosecutor has opposed and submitted that the offence is of serious nature and adversely affects the State Revenue, as such, the benefit of the probation of good conduct should not be extended to the accused.

4. I have taken the respective submissions into consideration. Admittedly the offence was committed in June, 1978. The accused was found in possession of 40 bottles of illicit liquor. No previous conviction stands at his discredit. The courts below have not advanced cogent and convincing reasons for not extending the benefit of the probation of good conduct to the accused. Taking all these factors into consideration it would not be improper to release the accused on probation of good conduct, under Section 360 Cr.PC.

5. In the result the revision of accused Daulat is partly allowed. The conviction of accused under Section 4(2) of the Rajasthan Prohibition Act is maintained but the sentences awarded to him are set aside. Instead of sentencing him at once to any punishment it is hereby directed that he will-be released on his entering a bond for a sum of Rs. 2000/- with a surety in the like amount to the satisfaction of the learned Additional Munsif and Judicial Magistrate, Barmer, to put appearance before him and receive sentence when called upon during the period of two years and in the meantime to keep the peace and be of good behaviour. The accused is allowed two months time to furnish the aforesaid bonds.