

Roshanali Burhanali Syed

Vs

State of Gujarat

Criminal Appeal No. 259 of 1976

(Syed M. Fazal Ali, Baharul Islam, A. Varadarajan JJ)

26.03.1981

JUDGMENT

1. This appeal by special leave is confined only to the question of sentence and probation. The learned Sessions Judge was requested to release the appellant on probation having regard to the petty nature of the offence. The Sessions Judge would have accepted the request of the appellant but he was under the impression that under the provisions of the Probation of Offenders Act, 1958 a person who was above 21 years of age could not be released on probation. The learned Sessions Judge seems to have overlooked the provisions of Section 4(1) of the Act which does not contain any restriction that the offender must be 21 or below that age although this restriction is to be found in Section 6.

2. We therefore allow this appeal to the extent that instead of sentencing the appellant at once to imprisonment, we direct that he may be released on executing a bond of good behaviour for a period of one year and on furnishing two sureties of Rs. 500 each and a personal recognizance bond of the same amount. In case he is found to commit some offence during this period, he will be directed to appear and receive the sentence which has been imposed on him.

</html