

(2004) 06 MAD CK 0093

In the Madras High Court

Case No : Habeas Corpus Petition No. 278 of 2004

Arjunan

APPELLANT

Vs

The District Collector and District Magistrate and The
Secretary to Government Prohibition and Excise Department

RESPONDENT

Date of Decision : 24-06-2004

Acts Referred:

Constitution of India, 1950 — Article 226
Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders,
Goondas, Immoral Traffic Offenders and Slum-Grabbers, Act, 1982 — Section 3(1)

Citation : (2004) 06 MAD CK 0093

Hon'ble Judges : P.D. Dinakaran, J;N. Kannadasan, J

Bench : Division Bench

**Advocate : R. Srinivas, for the Appellant; Abudukumar Rajaratnam Additional
Public Prosecutor, for the Respondent**

Final Decision : Allowed

Judgement

P.D. Dinakaran, J.—The order of detention dated 10.2.2004 passed by the first respondent u/s 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug-Offenders, Forest-Offenders, Goondas, Immoral Traffic Offenders and Slum Grabbers Act, 1982, branding one Kali @ Sekar as bootlegger is challenged by the friend of the detenu.

2. The ground case is said to have taken place on 28.1.2004, wherein the detenu was found in possession of 105 litres of illicit arrack in a rubber tube containing 6.48 mg% w/v of atropine. A case was registered in Crime No.46/2004 for the offence punishable under Sections 4(1)(aaa), 4(1)(i) read with 4(1-A) of TNP Act on the file of Valivalam Police Station. The detaining authority, taking note of the above ground case and five adverse cases of similar nature, passed the order of detention on 10.2.2004.

3. The main contention of the learned counsel for the petitioner is that even though the Magistrate remanded the detenu only for the offence punishable u/s

4(1)(aaa) of the TNP Act, in the grounds of detention, it is mentioned that the case is registered against the detenu for the offence punishable under Sections 4(1)(aaa), 4(1)(i) read with 4(1-A) of TNP Act, which is totally incorrect and the impugned order of detention is vitiated.

4. We are satisfied that apparent on the face of the record, the impugned order of detention suffers from non application of mind by the detaining authority. Therefore, on this count, the petition has to be allowed. We, therefore, allow this petition and set aside the impugned order of detention. The detenu is directed to be released forthwith, unless he is required in any other case.