

**(2006) 07 MAD CK 0127**

**In the Madras High Court**

**Case No : Habeas Corpus Petition No. 401 of 2006**

Sasi alias Sasikumar

APPELLANT

Vs

The Secretary to Government, Prohibition and Excise  
Department, Government of Tamil Nadu and The  
Commissioner of Police

RESPONDENT

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**Date of Decision : 11-07-2006**

**Acts Referred:**

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

**Citation : (2006) 07 MAD CK 0127**

**Hon'ble Judges : V. Dhanapalan, J;P. Sathasivam, J**

**Bench : Division Bench**

**Advocate : M. Rajavelu, for the Appellant; M. Babu Muthu Meeran, Assistant  
Public Prosecutor, for the Respondent**

**Final Decision : Allowed**

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## **Judgement**

V. Dhanapalan, J.—The petitioner by name Sasi @ Sasikumar, challenges the impugned order of detention dated 10.03.2006, detaining him

as ""Goonda"" u/s 3(1) of the Tamil Nadu Prevention of Dangerous activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral

Traffic Offenders, Slum Grabbers and Video Pirates Act, 1981 (Tamil Nadu Act 14 of 1982).

2. Heard both sides.

3. At the foremost, the learned Counsel for the petitioner by drawing our attention to para 4 of the grounds of detention submitted that though bail

was granted in respect of Crime Nos. 987/2005, 70/2006 and 73/2006 on the file of J9 Thuraipakkam Police Station, the detaining authority

proceeded on the misconception and incorrect fact that the detenu has not

moved any bail application so far. In support of the above contention, the learned Counsel has placed the details regarding copy of the bail petition and orders passed therein, which show that the detenu has moved bail application for the first adverse case in Crime No. 987 of 2005 on 07.02.2006 and the same was dismissed by the learned Judicial Magistrate, Alandur at Chennai in CrI.MP. No. 817 of 2006 on 13.02.2006 and again the detenu moved another bail petition on 03.03.2006 and the same was dismissed by the learned Judicial Magistrate, Alandur at Chennai in CrI.MP. No. 1459 of 2006 on 08.03.2006. As rightly pointed out, this fact was suppressed by the sponsoring authority and the detaining authority has come out with incorrect statement, viz., that the detenu has not moved any bail application so far, which amply shows the non-application of mind on the part of the detaining authority.

4. The learned Additional Public Prosecutor by drawing our attention to Sub-clause (3) and (4) of para 12 of the judgment in the case of Abdul

Sathar Ibrahim Manik v. Union of India and Ors. reported in 1992 SCC (Cri.) 1 contended that there is no error or any other flaw in arriving

subjective satisfaction regarding imminent possibility of coming out on bail.

5. We verified the conclusion arrived at by the Hon'ble Supreme Court in the above cited decision 1992 SCC (Cri.) 1. Sub-Clause 3 and 4 of

paragraph 12 of the above cited decision relates to non-supply of copies of bail application or the order refusing the bail to the detenu and they

also observed that failure to supply the copies of bail application or refusing bail would not affect the detenu's right in making effective

representation. In our case, the grievance of the petitioner is that the detenu moved bail applications in respect of Crime Nos. 987 of 2005 and 70

of 2006 and were dismissed, by the learned Magistrate, the detaining authority without reference to the same has stated that the detenu has not

moved any bail application, which is factually incorrect and also reflects his non-application of mind on the relevant materials. Accordingly, we

accept the contention of the learned Counsel for the petitioner and on this ground the impugned detention order is liable to be quashed;

accordingly, this petition is allowed. The order of detention impugned in the petition is set aside and the detenu is directed to be set at liberty

forthwith from the custody unless he is required in connection with any other

case.