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## **CASE COMMENT: AMLESH KUMAR V. STATE OF BIHAR (2025)**

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**CITATION:** SLP (Crl.) No.5392 of 2024

**BENCH:** Justice Sanjay Karol and Justice Prasanna B. Varale

**JUDGMENT DATE:** 9 June 2025

### **INTRODUCTION**

The use of scientific investigative techniques such as narco-analysis has raised significant questions relating to personal liberty and right and self-incrimination. The Indian Constitution has consistently maintained that the investigative procedures cannot override fundamental rights that are present under Part III of the Indian Constitution.

The Supreme Court judgment in *Amlesh Kumar v. State of Bihar* is significant as it examines the legality of acceptance of narco-analysis at the bail stage under Section 439 of the Code of Criminal Procedure. The judgment reaffirms the principles laid down in *Selvi v, State of Karnataka* and limited the scope of bail proceedings, cautioning the court not to convert bail proceedings into a mini-trial. The ruling thus strengthens constitutional safeguards against coercive investigative practices.

### **FACTS OF THE CASE**

On 24<sup>th</sup> August 2022, an FIR was registered at Mahua Police Station, Bihar, against Amlesh Kumar and his family members under Sections 341, 342, 323, 363, 364, 498A, 504, 506, and 34 of the Indian Penal Code, 1860. The FIR was registered after the sudden disappearance of Amlesh's wife under mysterious circumstances.

During investigations, the co-accused person allegedly revealed that the woman had been killed and thrown into the river. Based on the FIR and the statement revealed by the co-accused, the

Sessions Court rejected Amlesh's bail application on 1 August 2023.

Amlesh approached the Patna High Court for regular bail. During the proceedings, the Sub Divisional Police Officer suggested that a narco-analysis test would be done on the accused and the key witnesses. The High Court accepted this assurance from the SDPO and postponed the bail applications until the narco-analysis test results were available.

Amlesh challenged the acceptance of assurance by the High Court for the narco- analysis test in the Supreme Court, stating that the narco-analysis test violates his right to life and personal liberty under Article 21 of the Indian Constitution.

## **ISSUES**

1. Whether the High Court has the power to accept the submission of conducting a narco-analysis on the accused and witnesses while hearing a bail application?
2. Whether the report of the narco-analysis can form the sole basis of conviction in a criminal case?
3. Whether an accused has an absolute right to voluntarily seek a narco-analysis test?
4. Whether the accused can be compelled to undergo narco- analysis without their free consent?

## **RULES APPLIED**

1. Article 20(3) of the Constitution of India

It is a fundamental right to protect individuals against self-incrimination which means no person can be compelled to be a witness against themselves.

2. Article 21 of the Constitution of India

It is a fundamental right that guarantees the right to life and personal liberty to every individual.

3. Section 439 of the Code of Criminal Procedure

It grants the High Court and the Session Court powers to grant bail.

4. Section 27 of the Indian Evidence Act

It states that only the portion of the statement given by the accused in police custody that leads to the discovery of a fact is admissible.

### **KEY JUDICIAL PRECEDENTS APPLIED**

1. Selvi v. State of Karnataka<sup>1</sup>

It is a landmark judgment that declared narcoanalysis, polygraph test and brain mapping conducted without the consent of the accused unconstitutional as such tests violate Article 20(3) and Article 21 of the Constitution of India.

2. Sangitaben Shaileshbhai Datana v. State of Gujarat<sup>2</sup>

The Supreme Court held that ordering narcoanalysis and brain mapping at the bail stage improperly converts the bail proceedings into a mini-trial which is not the function of the bail court.

3. Vinobhai v. State of Kerala<sup>3</sup>

The Supreme Court held that disclosure statements alone cannot establish guilt without any strong corroborative evidence.

### **CONTENTIONS**

#### **Appellant's Contentions: -**

1. The acceptance of submission of conducting narco-analysis is violative of Article 20(3) and Article 21 of the Constitution of India as decided in the case of Selvi v. State of Karnataka.
2. Narco-analysis tests are coercive and they affect the free will of a person and are

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<sup>1</sup> Selvi & Ors. v. State of Karnataka & Anr., AIR 2010 S.C. 1974, (2010) 7 S.C.C. 263 (India).

<sup>2</sup> Sangitaben Shaileshbhai Datana v. State of Gujarat, SLP (Crl.) No. 4887 of 2018

<sup>3</sup> Vinobhai v. State of Kerala, (2025) INSC 119 (India)

violative of Article 20(3) of the Constitution of India.

3. Bail proceedings under Section 439 of the Code of Criminal Procedure are limited in scope and the court should not consider or use any intrusive investigation method at bail proceedings.
4. Confessional statements by the co-accused and the narco-analysis report cannot form the sole basis of conviction.

**Respondent's Contentions: -**

1. Narco-analysis is sometimes necessary to uncover the truth in serious offences like murder and dowry harassment.
2. The High Court had merely accepted the assurance of conducting narcoanalysis and had not issued any mandatory direction for conducting the tests.
3. Voluntary narcoanalysis, if conducted with proper safeguards, is not violative of constitutional rights.

**SUMMARY OF THE JUDGMENT**

The Supreme Court held that the acceptance of submission for conducting narco-analysis by the High Court while hearing bail application amounted to indirect judicial approval of an invasive investigative technique which directly violates Article 20(3) and Article 21 of the Indian Constitution and is inconsistent with the precedent laid down in *Selvi v. State of Karnataka* which prohibits the involuntary administration of narco-analysis tests.

The Court further states that proceedings under section 439 CrPC are limited in scope and the courts are not empowered to order or endorse any investigative methods. The High Court has exceeded its jurisdiction and converted a bail hearing into a mini-trial as laid down in *Sangitaben Shaileshbhai Datana v. State of Gujarat*.

The Court held that statements made during narco-analysis with proper safeguards cannot be used as substantive evidence. Only facts which are discovered from such information may be admitted under Section 27 of the Indian Evidence Act. The results of the narco test cannot be the sole basis for conviction.

The Court further held that an accused person has a right to voluntarily undergo narco-analysis test, but it should be done at an appropriate stage of the trial process

## **ANALYSIS**

The Supreme Court judgment is based on the three pillars: (a) right against self-incrimination under Article 20(3) of the Indian Constitution, (b) right to life and personal liberty under Article 21, (c) scope of bail jurisdiction under Section 439 of the CrPC.

One of the most significant aspects of this judgment is the rejection of the High Court's acceptance to conduct narco-analysis during bail proceedings. Although the High Court did not explicitly give an order, the acceptance amounted to indirect judicial approval. This judgment gives clarity that violations of constitutional provisions can arise from implied approval.

The Court also emphasised that bail proceedings do not deal with determining guilt or innocence of the accused, but are limited to access factors like the possibility of absconding, tampering with evidence and the gravity of the offences. By postponing the bail proceeding to wait for the outcome of narco test is exceeding of jurisdiction by the High Court.

This judgment strongly reaffirms the principles laid down in *Selvi v. State of Karnataka*, where involuntary administration of narco-analysis is violative of Article 20(3) and Article 21 of the Constitution. The Court emphasised that the narco test interferes with the mental process of an individual, thus compromising the freedom of will.

Even if the narco-analysis test is done with proper safeguards and voluntarily, such statements made during narco analysis cannot be substantive evidence to decide the conviction of a person alone. The admissibility is strictly limited to Section 27 of the Indian Evidence Act.

Another important aspect of this judgment is its approach toward voluntary narco-analysis. The court recognised the right of an accused to undergo voluntary narco-analysis but rejected the idea of the absolute right to demand such a test. It is the discretion of the court whether to permit a voluntary narco test or not by considering the circumstances of the case, genuineness of the consent and the potential impact on the fairness of the trial.

## **CONCLUSION**

The decision in this case reaffirms the constitutional limits on criminal investigation and

restrictions on the scope of bail proceedings. By disallowing even implied approval of narco analysis at bail proceedings at bail proceeding, the Supreme Court has set a protective and fair function of bail under criminal law.

The judgment strengthens the safeguards under Article 20(3) and 21 by emphasising that the investigation process cannot override fundamental rights. It also cautions the court not to exercise its jurisdiction in the bail proceedings. Overall, the ruling holds that constitutional due process must prevail over invasive investigative practices.