

Narco-Analysis Constitutionality in India: 2025 Supreme Court Ruling on Consent, Rights, and Legal Admissibility Explained.

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Introduction

In recent years, the use of scientific techniques such as narco analysis, polygraph, and brain mapping has sparked significant legal and ethical debate within India's criminal justice system. These methods, often portrayed as tools to uncover concealed truths, raise fundamental concerns regarding personal liberty, bodily autonomy, and the right against self-incrimination. The Supreme Court's 2025 judgment in [Amlesh Kumar v. State of Bihar \(2025 INSC 810\)](#) brings this issue back into sharp focus, delivering a clear reminder that investigative practices must not override constitutional protections. The case critically examines whether courts can permit such techniques without the accused's consent, especially in the context of bail proceedings. It also reaffirms the constitutional guarantees under Articles 20(3) and 21, as previously laid down in the landmark decision of [Selvi v. State of Karnataka \[\(2010\) 7 SCC 263\]](#) in 2010. This article explores the key facts, legal questions, judicial reasoning, and the broader implications of the judgment on the admissibility and scope of narco-analysis in Indian criminal law.

Facts:

The case arises from an FIR dated 24 August 2022 filed against Amlesh Kumar and his family under sections 341, 342, 323, 363, 364, 498A, 504, 506, and 34 alleging dowry harassment and the suspected disappearance of Amlesh's wife, who had been missing since 21 August 2022. While the complainant alleged that the wife was subjected to cruelty and may have been harmed by the accused, Amlesh claimed that she went missing after stepping off a bus during a journey to Ayodhya. Despite filing a missing person report on 28 August 2022, she remains untraced. During the pendency of his bail application, the Patna High Court accepted the investigating officer's assurance that narco-analysis tests would be conducted on all accused and witnesses, prompting Amlesh to challenge the order before the Supreme Court, citing constitutional protections against forced self-incrimination.

Which fact(s) lead the Supreme Court to grant the Special Leave to Appeal?

The Supreme Court accepted the Special Leave Petition (SLP) filed by Amlesh Kumar because the Patna High Court, while hearing his bail application, accepted the investigating officer's submission to conduct narco-analysis tests on all accused persons without their consent—an action that directly contravened the constitutional protections under Articles 20(3) and 21 as laid down in the landmark judgment *Selvi v. State of Karnataka* (2010). The Court found this to be a serious legal error, particularly because such coercive investigative techniques cannot be permitted in law without voluntary consent and judicial safeguards, especially in the limited context of deciding bail under Section 439 CrPC.

What was the substantial question of law before the Supreme Court?

The substantial question of law before the Supreme Court in *Amlesh Kumar v. State of Bihar* was whether the High Court could, during the hearing of a bail application under Section 439 CrPC, validly accept the investigating officer's proposal to conduct **narco-analysis tests on accused persons without their consent**, in light of the constitutional protections guaranteed under **Articles 20(3) and 21** of the Constitution of India and the binding precedent laid down in *Selvi v. State of Karnataka* (2010) 7 SCC 263.

What questions of law were framed by the Supreme Court?

The Supreme Court in *Amlesh Kumar v. State of Bihar* (2025 INSC 810) framed the following **three key questions** for consideration:

1. **Whether**, in the attending facts and circumstances, **the High Court could have accepted the submission** made by the Investigating Officer to conduct narco-analysis tests on all the accused persons during the pendency of a bail application.
2. **Whether a report of a voluntary narco-analysis test can form the sole basis of conviction** in the absence of other evidence on record.
3. **Whether an accused can voluntarily seek a narco-analysis test as a matter of an indefeasible right.**

These questions were framed to examine the legality and constitutional permissibility of using narco-analysis in criminal proceedings, particularly in light of the protections under Articles 20(3) and 21 of the Constitution.

What is Legality of High Court Permitting Narco-Analysis During Bail Hearing?

The Supreme Court held that the High Court erred in permitting the investigating officer to conduct narco analysis tests on all accused persons during the hearing of a bail application, as such a direction was unconstitutional and contrary to the binding precedent in *Selvi v. State of Karnataka* (2010), which held that involuntary narco analysis violates Articles 20(3) and 21 of the Constitution. The Court reaffirmed that such tests cannot be conducted without the accused's free and informed consent and the presence of strict judicial safeguards. It further observed that a bail hearing under Section 439 of the Code of Criminal Procedure is limited to assessing prima facie allegations, the period of custody, and the risk of interference with justice,

and is not the proper forum to authorise investigative procedures. Citing *Sangitaben Shaileshbhai Datana v. State of Gujarat* (2019) 14 SCC 522, the Court criticised the High Court's approach as converting a bail hearing into a mini trial, which is impermissible under settled criminal law jurisprudence.

Can Voluntary Narco-Analysis Alone Justify Conviction?

The Supreme Court held that a **voluntary narco-analysis test report cannot, by itself, form the sole basis for conviction**. It emphasized that while such a test may be conducted with informed consent and appropriate safeguards, the **results are not admissible as direct evidence**. Only information or material discovered as a consequence of the test may be admissible under **Section 27 of the Indian Evidence Act, 1872**, and even then, a conviction **cannot rest solely on that basis**. The Court cited *Vinobhai v. State of Kerala* (2025) and *Manoj Kumar Soni v. State of M.P.* (2023), reaffirming that **disclosure statements without corroborating evidence are insufficient to prove guilt beyond reasonable doubt**. Thus, the second question was also **answered in the negative**.

Whether an accused has an absolute right to undergo narco-analysis voluntarily?

While an accused **may voluntarily request** to undergo a narco-analysis test, the Court held that there is **no absolute or indefeasible right** to do so. The decision to allow such a test lies with the concerned court, which must assess the **totality of circumstances**, including **free and informed consent**, the **stage of the trial**, and **compliance with safeguards** laid down in *Selvi v. State of Karnataka* (2010). The Court clarified that such tests, if permitted, should ideally be conducted **when the accused exercises the right to lead evidence in defence** under Section 233 CrPC, and even then, the **test results themselves are not admissible as evidence**, except for any **discoveries made under Section 27 of the Evidence Act**.

Outcome of the case

The Supreme Court allowed the appeal and **set aside** the Patna High Court's order permitting narco-analysis of the accused, holding it unconstitutional and contrary to *Selvi v. State of Karnataka*.

What is a narco-analysis or polygraph test?

A narco-analysis test is a forensic psychological technique in which a subject is injected with a sedative drug, commonly sodium pentothal, to induce a hypnotic or semi-conscious state. In this state, it is believed that the person's ability to lie or withhold information is reduced, and they may reveal truthful responses to questions.

A polygraph test, or lie detector test, measures physiological responses such as heart rate, blood pressure, respiration, and skin conductivity while the subject answers a series of questions. The assumption is that deceptive answers will produce measurable physiological changes.

Both tests are investigative tools, not conclusive evidence, and their use without consent is unconstitutional in India, as held in *Selvi v. State of Karnataka* (2010), due to violations of Articles 20(3) and 21 of the Constitution.

What was held in the *Selvi and Ors. v. State of Karnataka* (2010) 7 SCC 263?

In *Selvi and Ors. v. State of Karnataka* (2010) 7 SCC 263, a three-judge bench of the Supreme Court of India held that involuntary administration of narco-analysis, polygraph tests (lie detector), and brain-mapping techniques on suspects, accused persons, or witnesses is unconstitutional. As per the **Amlesh** case (supra. Refer para – 8 of original judgment) following six points came to be expounded in the *Selvi* case:

- “8.1. Articles 20 and 21 of the Constitution are non-derogable and sacrosanct rights to which the judiciary cannot carve out exceptions;
- 8.2. Involuntary administration of narco-analysis and similar tests is in contravention of the protection given by Article 20(3) of the Constitution, i.e. the right against self-incrimination;
- 8.3. The results of such involuntary tests cannot be considered as ‘material evidence’ in the eyes of the law;
- 8.4. Conducting such tests in the absence of consent violates ‘substantive due process’ – which is an essential element required for restraining one’s personal liberty. Permitting such tests may lead to a disproportionate exercise of police powers;
- 8.5. The boundaries of privacy of a person are also breached when these tests are conducted without consent; and
- 8.6. For voluntary tests, it must be ensured that appropriate safeguards are in place. Moreover, the results of the same cannot be admitted directly as evidence. Pertinently, any fact or information that is discovered subsequent thereto, with the help of the information supplied in the result, can be admitted into evidence with the aid of Section 27 of the Indian Evidence Act 1872.”

When can an accused voluntarily undergo a narco-analysis test?

The position of when can an accused voluntarily undergo a narco-analysis test has been cleared by the *Amlesh* judgment wherein it has been held that the appropriate stage for an accused to voluntarily undergo a narco-analysis test to be conducted is when the accused is **exercising his right to lead evidence in a trial**. However, there is no indefeasible right with the accused to undergo a narco-analysis test, for upon receipt of such an application the concerned Court, must consider the totality of circumstances surrounding the matter, such as free consent, appropriate safeguards etc., authorizing a person to undergo a voluntary narco-analysis test.

What are the guidelines that must be followed in the voluntary narco-analysis test?

The Supreme Court in *Selvi v. State of Karnataka* (2010) laid down strict guidelines, based on the **National Human Rights Commission (NHRC) Guidelines, 2000**, for conducting voluntary narco-analysis, polygraph, or brain-mapping tests. These were reiterated in *Amlesh Kumar v. State of Bihar* (2025), which are::

- (i) (i) No lie detector tests should be administered except on the basis of consent of the accused. An option should be given to the accused whether he wishes to avail such test.
- (ii) (ii) If the accused volunteers for a lie detector test, he should be given access to a lawyer and the physical, emotional and legal implication of such a test should be explained to him by the police and his lawyer.
- (iii) (iii) The consent should be recorded before a Judicial Magistrate.
- (iv) (iv) During the hearing before the Magistrate, the person alleged to have agreed should be duly represented by a lawyer.
- (v) (v) At the hearing, the person in question should also be told in clear terms that the statement that is made shall not be a “confessional” statement to the Magistrate but will have the status of a statement made to the police.
- (vi) (vi) The Magistrate shall consider all factors relating to the detention including the length of detention and the nature of the interrogation.
- (vii) (vii) The actual recording of the lie detector test shall be done by an independent agency (such as a hospital) and conducted in the presence of a lawyer.
- (viii) (viii) A full medical and factual narration of the manner of the information received must be taken on record.”

Sequitur – the conclusion.

Thus, the Supreme Court’s decision in *Amlesh Kumar v. State of Bihar* (2025 INSC 810) reinforces the constitutional safeguards surrounding investigative techniques like narco-analysis. The Court firmly held that the use of such techniques without free, informed, and judicially recorded consent violates Articles 20(3) and 21 of the Constitution, and any attempt to circumvent these protections, even during bail proceedings, will not be condoned. By setting aside the Patna High Court’s order and reaffirming the principles laid down in *Selvi v. State of Karnataka* (2010), the Court not only upheld the accused’s fundamental rights but also clarified that voluntary narco-analysis is neither a right nor a permissible evidentiary shortcut unless conducted with full procedural safeguards at an appropriate stage. This judgment settles the

law on three critical fronts: (1) involuntary narco-analysis is unconstitutional, (2) voluntary narco-analysis cannot solely justify conviction, and (3) the accused has no absolute right to demand such a test. The ruling strikes a careful balance between the needs of investigation and the protection of individual liberty, ensuring that constitutional values remain paramount in the criminal justice process.
