Supreme Court's Ruling On Narco Tests

Mains: *GS II – Governance/GS IV – Ethics*

Why in News?

Recently, The Supreme Court (SC) has held that any forced or involuntary narco test shall be unconstitutional and invalid.

What is the recent the legal intervention of SC?

- **Patna HC order** – The order that permitted narco test in *Amlesh Kumar v. State of Bihar* (2025).
- **Observation of SC** – The apex court is of the view that the Patna High Court's order was in contravention of the guidelines given in *Selvi v. State of Karnataka* (2010).

What is a narco test?

- **Definition** – A narco test is a process of investigation during which it is expected that the accused, undergoing such a test, would express the concealed facts.
- **Process** – He is sedated by administering a certain class of substances, such as barbiturates, for instance, Sodium Pentothal, to reduce a subject's inhibitions and reasoning ability.
- It is a non-violent method similar to those called polygraphs or brain mapping.

Why are these tests constitutionally problematic?

- **Article 20** – Clause (3) of Article 20 of the Constitution provides for the protection against self-incrimination, meaning that no person accused of any offence shall be compelled to be a witness against himself.
- **Intervention of Supreme Court** – The apex court, while referring to the Selvi guidelines, has held that without free consent, any such test would be unconstitutional and hence any information obtained therefore shall not be used as evidence.
- It is important to note that all three clauses of Article 20 form the constitutional foundation of India's criminal justice system.
    - **Clause (1)** – It deals with ex-post facto laws that declare an act as an offence which, when committed, was not an offence.
    - **Clause (2)** – It states that no person shall be prosecuted and punished for the same offence more than once, that is, protection against double jeopardy.
    - **Clause (3)** – It protects an accused from self-incrimination.
- One of the principles of a democratic criminal justice system is the need to balance the rights of the victim with those of the accused.

- Any violation of the right against self-incrimination would be a matter of serious concern in the context of democratic values and principles.
- **Article 21** – Similarly, personal liberty under Article 21 is of paramount importance because it incorporates the Right to Privacy.
- Any such test without the express consent of the person (accused) would violate one of the most basic human rights.
- *Article 21, together with Articles 19 and 14*, constitute the *'Golden Triangle' of the Constitution*, as explained by the Supreme Court in *Maneka Gandhi v. Union of India* (1978).
- It means that violation of the Right to Privacy would thereby violate the Right to Life and Personal Liberty, and, finally, the Golden Triangle.

What have courts said about evidentiary value?

- **Observation of SC** – *Manoj Kumar Saini v. State of MP* (2023) and *Vinobhai v. State of Kerala* (2025), the courts held that the results of a narco test do not confirm guilt.
- Although information obtained from the test might contribute to the investigation, it must be corroborated with other evidence.
- **Consent** – The Supreme Court has held that consent must be informed, recorded before a magistrate, and undertaken with medical, legal, and procedural safeguards.
- Article 21, incorporates the phrase '*procedure established by law*' which signifies that the procedure provided by law shall be fair.
- All procedural safeguards shall be taken care of before conducting any such non-invasive tests.
- The court has made it clear that a person may volunteer for a narco-analysis test at the stage of defence evidence under *Section 253 of BNSS*, however, there is no indefeasible right to such testing.

What lies ahead?

- The principle underlying informed consent is individual autonomy, which is associated with the concept of natural justice.
- Enlightenment thinker Immanuel Kant said that an act is ethical only when performed with consent.
- In this context, forced or involuntary testing violates ethical principles as well as core human and natural values.

Reference

The Hindu| Narco Test

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