

Jiah suicide case: Experts slam narco-analysis move

Bharati Dubey, Rebecca Samervel & Nitasha Natu | TNN

Legal experts have slammed the Mumbai police move to seek to administer a narco-analysis test on Suraj Pancholi. Any move by the defence to oppose this, they said, would immediately prompt the cops to say the defence had something to hide.

Suraj was arrested on June 10, after Jiah Khan's mother produced a letter allegedly written by the actor. This evidence, though, was dismissed by the defence counsel and experts who questioned its authenticity. The defence pointed out that the letter was found belatedly, days after Jiah's death; it does not state the exact date, time and place of any incident; no overt act is attributed to Suraj and it has not even been signed by anyone.

Lawyer and activist Y P Singh said that seeking the narco-analysis route in such weak cases is a drain on the state's forensic resources. "The Supreme Court has clearly stated that such tests have to be voluntary in nature. If he decides against giving his consent, it cannot have any bearing on the trial process or prejudice police investigations. He might have his personal reasons not to go ahead with the tests," he said. Singh further said that such a test should be used only to recover hidden incriminating material. "The test cannot be used to seek a statement of confession from the accused during investigations," he added.

Dr Rukmani Krishnamurthy, former director of the state forensic science laboratory, said that narco-analysis is very subjective and is not well-practised anywhere in the world or in India. "Narco-analysis only provides leads for investigation. After the Supreme Court verdict, it is taken with a pinch of salt. In some cases, brain-mapping could provide corroborative evidence but it should be supported with physical evidence," said Krishnamurthy. Sources said there isn't enough staff at the state forensic science laboratory at present to conduct tests such as narco-analysis.

The police had made the application to conduct the test before the Andheri magistrate court on Tuesday. On Wednesday, a police team went to Arthur Road jail where Suraj has been lodged since he was sent to judicial custody. "The police arrived with a memo which Suraj refused and said he would not do anything unless he consulted his lawyer," said his lawyer

TELGI, KASAB...AND NOW SURAJ?

WHAT IS NARCO-ANALYSIS?

- It involves introduction of sedatives such as sodium pentothal or sodium amytal, which put a person in a kind of hypnotic state and render the person unable to lie
- It makes the person volunteer information that he or she would have otherwise

avoided airing

- The person can answer only specific questions and the answers are taken to be spontaneous
- The sedatives used depend on the age, sex and health condition of the person being interrogated

MEDICAL AFTER-EFFECTS

If not administered with proper care, the serum could put the person in a coma or even lead to death

SUPPORTIVE EVIDENCE

Report of a narco-analysis test can only be used as supportive evidence. It is not admissible as standalone evidence in court

SC RULING

- In 2010, the Supreme Court ruled that the use of narco-analysis, brain-mapping and polygraph tests on accused, suspects and witnesses without their consent was unconstitutional and a violation of the right to privacy. The court further said that even when a suspect or an accused has given consent, the test results in their entirety will not be admissible as evidence, as "the subject does not exercise conscious control over the responses during the administration of the test." Only if any information or material is discovered subsequent to the voluntarily administered tests, then it can be admitted as evidence

FAMILY REACTS

“How can they even think of a narco test? What has my son done, is he some criminal? Kya usne bomb blast kiya hai? This is not fair to my child who is innocent

Zarina Wahab | SURAJ PANCHOLI'S MOTHER



WHAT THE DEFENCE SAYS

"The police arrived with a memo which Suraj refused and said he will not do anything unless he consults his lawyer," said lawyer Zameer Khan. On Thursday, his lawyer objected saying that his client has the fundamental right to his confidentiality and that Suraj had refused to give his consent. The application for narco-analysis will be heard on July 1

PAST HIGH-PROFILE CASES

2004 | TELGI CASE

Abdul Karim Telgi, the main accused in the multi-crore fake stamp scam case, was administered narco-analysis tests. During his tests, Telgi had made allegations against certain top politicians from the state

2007 | NITHARI KILLINGS

The police had narco-analysis tests conducted on Moninder Singh Pandher and Surendra Koli, accused in the serial killings in Noida's Nithari village. The police had claimed Koli confessed to the killings

2008 AND 2010 | AARUSHI MURDER CASE

Lie-detector test, including polygraph test and narco-analysis, were conducted on Aarushi's father Dr Rajesh Talwar, mother Nupur, Talwar's compounder & another person

2008 | 26/11 ATTACKS

Pakistani terrorist Ajmal Kasab, the main accused in the 26/11 terror attacks

case, was administered narco-analysis tests. He reportedly confessed to the attacks

2010 | KURLA SERIAL RAPE, MURDER CASES

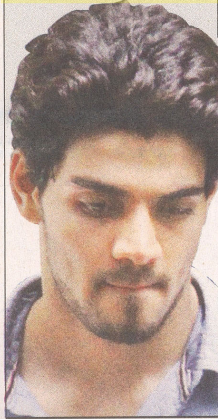
Police conducted narco-analysis tests on Mohammad Ajmeri Shaikh, an accused in the rape and murder of girls in Kurla



EXPERT SPEAK

Narco-analysis only provides leads for investigation. After the Supreme Court verdict, it is taken with a pinch of salt. In some cases, brain-mapping could provide corroborative evidence but it should be supported with physical evidence

Dr Rukmani Krishnamurthy
FORMER DIRECTOR, STATE FORENSIC SCIENCE LABORATORY



Times View: A diabolical move

The police move to ask for narco-analysis on a 22-year-old, who they have charged with abetment to suicide (which itself, many legal experts say, is unjustifiable), seems diabolical. The test is extremely controversial and open to medico-legal debate on its safety and efficacy. That is why the law requires that it cannot even be done without the suspect's consent. There are, therefore, very good reasons why an accused may refuse to undergo such a test. But the police would be well aware that such a refusal can be portrayed as suspicious, thereby influencing public opinion. The alacrity with which the police arrested Pancholi in this case despite experts saying it was uncalled for makes the latest play seem even more suspicious than it would normally be.

fused to give his consent. Regional additional com-

events leading to Jiah's death is still unclear.

to find out what happened between them. They also had an