

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**BENCH AT AURANGABAD**

**922 CRIMINAL WRIT PETITION NO.235 OF 2009**

Rakesh Dattatraya Dhawde,  
Age 43 years, Occu. Business,  
R/o Flat No.3, Manini Apartments,  
Last Bus Stop of Dhayari Gaon,  
Pune.

... Petitioner

Versus

1. The State of Maharashtra,  
Through Superintendent of Police,  
Nanded, Dist. Nanded.
2. Police Inspector,  
Bhagyanagar Police Station,  
Nanded.
3. The Superintendent of Police,  
Central Bureau of Investigation (CBI),  
Nagpur.

... Respondents

**WITH**  
**CRIMINAL WRIT PETITION NO.238 OF 2009**

Rakesh Dattatraya Dhawde,  
Age 43 years, Occu. Business,  
R/o Flat No.3, Manini Apartments,  
Last Bus Stop of Dhayari Gaon,  
Pune.

... Petitioner

Versus

1. The State of Maharashtra,  
Through Superintendent of Police,  
Jalna, Dist. Jalna.
2. Police Inspector,  
Sadar Bazar Police Station,  
Jalna.
3. Police Inspector Local Crime Branch,  
Jalna, District Jalna.

... Respondents

...  
Mr. S.W.Munde, AGP for State/Respondent Nos.1 & 2  
...

**CORAM : T.V.NALAWADE, AND  
SUNIL K. KOTWAL, JJ.**

**DATED : 20<sup>th</sup> July, 2017**

**ORAL JUDGMENT (Per Shri. T.V.Nalawade, J.) :-**

1. Both the proceedings are filed for challenging the orders made by the learned Judicial Magistrate (First Class), Nanded and learned Chief Judicial Magistrate, Jalna and also the decision given by the learned Additional Sessions Judge, Jalna in Criminal Revision No.19/2009. The Court has allowed the application made by the investigating agencies to conduct the Narco Analysis Test of the petitioners. Nobody turned up for petitioners. In view of the law settled, on this point learned APP is heard.

2. In the case reported in ***Selvi and others Vs. State of Karnataka [(2010) 3 SCC 558]***, the Hon'ble Supreme Court has laid down that, the test of aforesaid nature affect the privacy of the persons and further such test cannot be allowed against the accused persons as it also violates the right given under Article 20(3) and Article 21 of Constitution of India.

3. In view of the settled position of law, this Court holds that, the petitions deserve to be allowed. Both the petitions are allowed. The orders made by Judicial Magistrate (First Class), Nanded and Chief Judicial Magistrate, Jalna, which are challenged in this petition are quashed and set aside. Order passed by the Additional District & Sessions Judge, Jalna is also quashed and set aside. The revision is allowed for giving the relief to the accused persons.

4. Rule made absolute in these terms in both the proceedings.

**(SUNIL K. KOTWAL, J.)      (T.V.NALAWADE, J.)**

vmk

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