

A.F.R.

Reserved on :- 04.02.2021

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**Case :-** CRIMINAL MISC ANTICIPATORY BAIL APPLICATION  
U/S 438 CR.P.C. No. - 2640 of 2021

**Applicant :-** Aparna Purohit

**Opposite Party :-** State of U.P.

**Counsel for Applicant :-** Praveen Kumar Singh, Syed Imran Ibrahim

**Counsel for Opposite Party :-** G.A.

**Hon'ble Siddharth, J.**

1. Heard Sri G.S. Chaturvedi, learned Senior Counsel assisted by Sri Syed Imran Ibrahim, Sri Praveen Kumar Singh, Ms. Monica Datta, Sri Siddharth Chopra, Sri Nitin Sharma and Ms. Saumya Chaturvedi, learned counsels for the applicant and learned A.G.A. for the State.
2. **Order on Criminal Misc. Exemption Application**

In view of the fact that certified copy of the F.I.R has been placed before this Court by means of a supplementary affidavit, the above noted application praying for exempting the filing of certified copy of the F.I.R is rejected.

**Order on Criminal Misc. Anticipatory Bail Application**

The instant anticipatory bail application has been filed with a prayer to grant anticipatory bail to the applicant, **Aparna Purohit**, in **Case Crime No. 14 of 2021, under Sections- 153(A)(1)(b), 295-A, 505(1)(b), 505(2) I.P.C., Section 66 and 67 of the Information Technology Act and Section 3(1)(r) of S.C./S.T. Act, Police Station- Rabupura, Greater NOIDA, District- Gautam Buddh Nagar.**

3. The allegation in the F.I.R lodged against the applicant and six other co-accused persons is that a web series is being shown on

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Amazon Prime Video, which is an online movie OTT platform and on 16.01.2021, the movie part-1, “TANDAV” has been broadcasted. The web series is being shown through Amazon Prime Video through Head of India Originals, as paid movie. The movie has been directed by co-accused, Ali Abbas. The content of this movie is affecting the image of the police of State of Uttar Pradesh adversely. In a Dial 100 police vehicle, two actors are shown travelling with open doors in a police uniform, consuming liquor and hurling abuses. The shooting has taken place in District-Gautam Buddh Nagar. After witnessing part-1 of the movie, it is seen that the Hindu Gods and Goddesses have been depicted in a bad light with the intention of inciting communal sentiments. The post of Prime Minister has been depicted in a manner which will adversely affect the democratic system of the country. Caste and community related utterances have been made deliberately so that it may affect the public peace. Similarly, utterances have been made against the State police, public administration and the constitutional posts so that the element of hate is developed between the communities and there are scenes which show disrespect for the scheduled castes. On account of the scenes and dialogues in the movie, the social harmony and public peace is being adversely affected. All this has been deliberately done to make the web series controversial and gain publicity for the purpose of commercial gain. Hence, the F.I.R has been lodged against the producer/director and actors/actresses of the movie series.

4. The applicant, Aparna Purohit, is Head of India Originals at Amazon Seller Services Pvt. Ltd., which is involved in streaming of the disputed web series on Amazon Prime Video. She claims herself to be post-graduate from APJ Kidwai Mass Communication Research Center (MCRC), Jamia Millia Islamia University, New

Delhi and has been working in the Mumbai Film Industry for the last 15 years.

5. Learned Senior Counsel for the applicant has submitted that the web series in dispute is a work of fiction and all the places, events, characters and incidents are imagination of the author. A disclaimer is included in the movie in this regard. The cast and crew of the web series “TANDAV” issued an unconditional apology (without prejudice to any of their rights or without any admission of any kind of wrong doing) on 18.01.2021 and have removed the offensive scenes and now there is no offensive material in the series. The applicant along with other co-accused persons filed a petition under Articles 32 of the Constitution of India before the Hon’ble Apex Court praying for quashing of number of F.I.Rs and complaint cases lodged against the applicant and other co-accused persons on 27.01.2021. Notices have been issued to the opposite parties, leaving it open for the accused persons to approach the High Court of the State for grant of bail/anticipatory bail. Hence, the applicant is before this Court.
6. He has further submitted that the lodging of F.I.R u/s 295-A I.P.C., is bad in law since there was no deliberate and malicious intention in the movie aimed at insulting religious beliefs of any class of citizens. The series is a work of fiction and it has nothing to do with the religious beliefs of anyone. Reliance has been place on the judgement in the case of **Mahendra Singh Dhoni Vs. Yerraguntla Shyam Sundar and another, 2017 (7) SCC 760** wherein the Apex Court has held that Section 295-A I.P.C., penalises only those acts of insults which are done with deliberate and malicious intention of outraging the religious feelings of that class of citizens. Insults to religion unwittingly, carelessly or without any deliberate or malicious intention do not come within the section. The web series “TANDAV” is not made with any deliberate or malicious intention

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to outrage the religious feelings of any community. The scenes of web series should be viewed as a whole and few scenes cannot be viewed in isolation. It is a political drama and it shows the ugly side of a power hungry politician. The offences alleged u/s 153-A(1)(b), 295-A, 505(1)(b), 505(2), 469 I.P.C. read with Sections 66 and 67 of the Information Technology Act and Section 3(1)(r) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 are not made out against the applicant. There is no *mens rea* involved. Initiation of criminal proceedings for a work of art stifles Article 19 (1) (a) of the Constitution of India and adversely affects Article 21 thereof. The applicant has been implicated because she is Head of India Originals Content and the OTT platform of a company is being used for streaming of the disputed web series.

7. Further submission is that without implicating the company of the applicant, she cannot be proceeded against as an accused in view of the judgement of the Apex Court in the case of **Sushil Sethi Vs. State of Arunachal Pradesh, 2020 (3) SCC 240**. The web series cannot be viewed by public at large. Only those who pay for the same can see it on the Amazon Prime Video Services. The fundamental right of freedom guaranteed under Article 19 (1) (a) of the Constitution of India can be reasonably restricted only for the purpose mentioned in Article 19(2) thereof. The Constitution of India does not confers any protection to the dissenters of free speech and expression. Reliance has been placed on the judgement of the Apex Court in the case of **Manohar Lal Sharma Vs. Sanjay Leela Bhansali, AIR 2018 SC 86** and has been submitted that the freedom of speech cannot be thwarted merely on the whims of some person and it should be given broad interpretation. The bare reading of the F.I.R shows that it does not disclose any commission of offence committed under S.C./S.T. Act. The

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applicant has no criminal antecedents to her credit and has been falsely implicated in this case when no offence is made out against her. She undertakes to cooperate with the investigation. Along with present implication, she has been implicated in other cases also.

8. Learned Senior Counsel for the applicant has placed reliance upon the judgements of the Hon'ble Apex Court in the cases of **Amish Devgan Versus Union of India and Others, (2021) 1 SCC 1; Bobby Art International and Others Versus Om Pal Singh Hoon and Others, (1996) 4 SCC 1; Rakeysh Omprakash Mehra & Anr. Versus Govt. Of NCT of Delhi & Anr., (2013) 1 DLT (Cri) 674; Director General, Directorate General of Doordarshan and Others Versus Anand Patwardhan and Another, (2006) 8 SCC 433; Union of India Versus State of Maharashtra and Others, (2020) 4 SCC 761; Prathvi Raj Chauhan Versus Union of India and Others, (2020) 4 SCC 727; Maya Ram Chauhan Versus State of Himachal Pradesh, 2020 SCC Online HP 2646; Dule Singh Versus State of Madhya Pradesh, Manu/MP/0403/1992.**
9. Learned A.G.A. appearing on behalf of the State of Uttar Pradesh has vehemently opposed the application. He has submitted that the F.I.R. in the present case is not the only F.I.R. lodged against the applicant. Apart from the present case, following F.I.Rs and criminal complaints have been lodged against the applicant :-
  - a. F.I.R No. 0031 of 2021 dated 17.01.2021 for alleged offences under Sections 153-A, 295, 505(1)(b), 505(2) and 469 of I.P.C., 1860 ("IPC") and under Sections 66, 66F and 67 of Information Technology Act, 2000 ("IT Act") was filed at 11:46 pm at Hazratganj Police Station, Lucknow.
  - b. F.I.R. No. 0045 of 2021 filed on 19.01.2021 at 5 pm at Omti Police Station, Jabalpur, Madhya Pradesh under Sections 153-A, 295-A and 505(2) of the Indian Penal Code, 1860.

- c. F.I.R. No. 34 of 2021 filed on 20.01.2021 at Ghatkopar Police Station, Mumbai, Maharashtra under Sections 153A, 295A and 505(2) of the Indian Penal Code, 1860.
- d. A Criminal Complaint was filed on 18.01.2021 before the Patiala House District Court, New Delhi under Sections 153A, 295A, 505(1)(b), 505(2) I.P.C., Sections 66, 77A IT Act, 2000 read with Section 34 of the I.P.C.
- e. A Criminal Complaint No. 173/2021 filed before the Chief Judicial Magistrate, Muzaffarpur under Sections 295A, 298, 504, 153(A) and 153(B) of the Indian Penal Code, 1860.
- f. F.I.R. No. 0034 of 2021 dated 18.01.2021 filed at Katra Police Station, Shahjahanpur, U.P.;
- g. F.I.R. No. 18 of 2021 dated 20.01.2021 filed at Agora Police Station, Ranchi;
- h. F.I.R. No. 20 of 2021 dated 20.01.2021 filed at Gwalior, Madhya Pradesh;
- i. F.I.R. dated 21.01.2021 filed at Chamba, Himachal Pradesh;
- j. F.I.R. No. 16 of 2021 dated 22.01.2021 filed at KK Puram Police Station, Bangalore, Karnataka;
- k. F.I.R. dated 23.01.2021 filed at Guna Cantt PS, Guna District, Bhopal, Madhya Pradesh
- l. Criminal Complaint filed on 20.01.2021 before the Ld. Magistrate, Indore
- m. Criminal Complaint filed on 20.01.2021 in Jalandhar.
10. He has submitted that total 10 F.I.Rs and 4 criminal complaints have been filed relating to the disputed web series in the country. His apprehension is that there may be further F.I.Rs/complaint cases registered against the applicant and other co-accused persons.

11. Learned A.G.A. has submitted that the aforesaid cases lodged against the applicants show that merely one person is not affected by the conduct of the applicant and other co-accused persons, rather number of persons across the country have felt that the web series is offensive and hence, they have lodged F.I.Rs/complaints. He has submitted that it is not a stray case of some over-sensitive individual lodging the F.I.R against the applicant and other co-accused persons regarding objectionable character and content of the web series in dispute. Hence, the applicant is not required to be granted any latitude from this Court. Her irresponsible conduct in permitting the use of OTT platform of her company for streaming of a religiously, communally, socially, politically and morally offensive web series disentitles her to grant of anticipatory bail. Even if there is no regulatory body to grant certificate of fitness to the movies being streamed online, it was the duty of the applicant to see that the contents of disputed movie are not such which may be detrimental to the social, communal, religious and political peace of the country. Entertainment at the cost of the fundamental rights of large sections of society is not as per the aim and object of the Constitution of India. Right to freedom of profession cannot be permitted to override the right to freedom of religion. He has finally submitted that Article 38 of the Constitution of India, which is included under part IV of the Constitution enumerating the Directive Principles of State Policy, provides that the State shall strive to promote the welfare of the people by securing and protecting as effectively as it may, the social order in which justice, social, economic and political, shall inform all the institutions of national life. Therefore, if the State is to secure a social order for promotion of welfare of the people, the people who disturb the social order and work against the promotion of welfare of the people thereby should be dealt firmly.

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12. After hearing the rival contentions, it would be useful to refer to allegedly objectionable scenes of episode 1 to episode 8 which have been brought on record as Annexure No. 5 to the anticipatory bail application by the applicant :-

Episode 1 – Campus Play Scene

विशाल (जो नारद का किरदार निभा रहा है)

नारायण नारायण!

**Vishal (portraying Narad)**

Narayan narayan!

इमरान

सना साउंड बढ़ा!

**Imran**

Sana, increase the sound!

विशाल

भोलेनाथ! प्रभु! ईश्वर ये रामजी के अनुयायी सोशल मीडिया पे दिन प्रताड़िन  
बढ़ते ही जा रहे हैं

**Vishal**

Bholenath! Prabhu! Ishwar! These Ramji followers are increasing day by day on social media.

‘जनता हंसती है ’

**\*Public laughs\***

विशाल

हमें भी अब कोई सोशल मीडिया स्ट्रेटजी बना लेनी चाहिये।

**Vishal**

Now we should also make society media strategy.

शिवा (भगवान शिव का किरदार निभाते हुए)

क्या करू नई फोटो लगाऊ?

**Shiva (portraying Lord Shiva)**

What to do, Should I upload a New picture?

‘ जनता सीटी और ताली बजाती है ’

**\*Public Whistles and Claps\***



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विशाल

भोलेनाथ आप बहुत भोले हैं, कुछ नया कीजिये, इनफैक्ट कुछ नया ट्वीट कीजिये, कुछ सेंसेशनल, कुछ भड़कता हुआ शोला, जैसे कि (सोच रहा है) हाँ, 'कैंपस के सारे विद्यार्थी देशद्रोही हो गए, आजादी-आजादी के नारे लगा रहे है'

**Vishal**

Bholenath, you are very innocent, do something new, Infact tweet something new, something sensational, some flaming blaze, like (Thinking) Yes, "All students of Campus became traitors, they are raising slogans of freedom-freedom"

शिवा

आजादी (गुस्से में) व्हाट द! 'माइक की स्थिर ध्वनि'

**Shiva**

Freedom (Angry) What the! \*mic static noise\*

' जनता हंसती और ताली बजाती है '

**\*Public Laughs & claps\***

शिवा

इधर आ, जब मैं सोने गया तो तब तक तो आजादी कूल चीज होती गई थी

अब बुरी हो गई क्या?

**Shiva**

Come here, , when I went to sleep, till then freedom was a very cool thing, has it become bad now?

विशाल

नारायण - नारायण।

**Vishal**

Narayan - Narayan.

शिवा

हाँ भई, किस चीज़ से आजादी चाहिये तुम लोगो को?

**Shiva**

Yes Brother, What do you want freedom from?

' जनता साथ में बोलती है '

भूखेमारी से... आजादी!

समंतवाद से ...आजादी!

जातिवादी से ...आजादी!

अत्याचारों से ...आजादी!

**Public Chant:**

Freedom from ...Starvation!

Freedom from ...feudalism!

Freedom from ...Casteism!

Freedom from ...atrocities!

शिवा

हाँ हाँ, मतलब देश से आजादी नहीं चाहियो, देश में रहते हुए आजादी चाहिये।

**Shiva**

Yes, yes, this means freedom is not required from the country,  
freedom is needed while living in the country.

‘जनता साथ में बोलती है’

हाँ

**Public chant**

Yes

शिवा

तो इन्हे समझाओ ना जियो लेकिन हमें भी से तो जीने दो।

**Shiva**

So explain it to them. To Live and let us live too.

शिवा

जो गाना हम गर्व से खड़े हो कर सीना तान कर गाते है उस गाने को ये गन के जोर पर डिसाइड कर रहे हैं। अरे आजादी ऐसी हो जो सिलेबस में पढ़ाई जाए। अखबारों में छापी जाए। दुनिया ऐसी हो कि मजदूर कि मजदूर का पसीना सूखने से पहले उसके हाथ में उसकी मेहनत का पैसा हो।

**Shiva**

The song which we used to sing proudly by standing and flexing the chest, they are deciding that on the thrust of this gun. Oh, freedom is such that one should study in syllabus, should be printed in newspapers. The world should be such that the laborer has his hard earned money in his hand before his sweat becomes dry.

Episode 1 – Devki Nandan talking to Kailash

देवकी नंदन

देवकी नंदन – “अच्छा! आप भी बोलेंगे। हम्म! इनके जो पितजी थे, जूते टाकते हैं। बहुत महीन कारीगार। बहुत मेहनती आदमी है। अबे, हम लोगों ने तुम लोगों पर सालो साल अत्याचार किये ना, उसी की वजह से तुम लोगों को आरक्षण की लाठी मिल गयी। उसके बाद हमें भी अपनी छवि ठीक करती थी। ये सब नहीं हुआ होता .... तो साले तुम्हारी औकात थी हमारे सामाने बैठ कर बात करने की? समझे? बोलेंगे!

**Devki Nandan**

Good! You will also speak. Hmm! His father, used to mend shoes, very fine Artisan, was a very hard working man. Hey, we have persecuted you for many years, because of that you got a support of reservation. After that we also had to improve our image. If all this would not have happened... then what was your status to talk by sitting in front of us? Understand? What will you say!

Episode 6 – Jigar to Sandhya

जिगर

जब एक छोटी जात का आदमी एक ऊँची जात की औरत को डेट करता है तो वो बदला ले रहा होता है सदियों के अत्याचारो का सिर्फ उस एक औरत से

**Jigar**

When a man of a lower caste dates a woman of a higher caste, he is taking revenge for the centuries of atrocities from that one woman.

Episode 8 – Sandhya to Kailash

संध्या

यू नो... जिगर ने एक दिन बोला था ..एंड आई थोट इट वाज बुलशिट.... पर उसने बोला था कैलाश, कि एक छोटी जात का आदमी जब उँची जात की औरत को डेट करता है तो सिर्फ बदला लेने के लिए.... सदियों के अत्याचारों का ...सिर्फ एक उस औरत से ...एंड आई थोट इट वाज बुलशिट!

**Sandhya**

You know ... one day Jigar told me .. And I thought it was bullshit .... But Kailash he said that, a lower caste man dates a woman belonging to a higher caste, just to get revenge. .... of centuries of atrocities ... from that one woman ... and I thought it was bullshit!

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13. It has been averred in the affidavit filed in support of the anticipatory bail application that the aforesaid scenes were removed only as a matter of caution and unconditional apology was submitted by the co-accused persons and crew of the web series.
14. The aforesaid scene portrayed Sage Narad, Lord Bholenath and Lord Ram as the characters of a play. Devakinandan is also the character talking to another character Kailash. Both these names are of Lord Krishna and Lord Shiva. These characters are part of religious faith of majority community of India and their use by filmmakers in offensive way is bound to hurt the sentiments of the majority community of the country. There is dialogue between Lord Shiva and Sage Narad in Episode 1, wherein Sage Narad is saying that the followers of Lord Ram are increasing day by day on social media and Lord Shiva wants suggestion from Sage Narad how to increase his social media followers. Sage Narad replies that he should do something new, something blazing like flames, like all students on campus has become traitors, they are raising slogans of freedom. Thereafter, the public blowing whistles and claps shows that the esteemed and revered characters of the faith of the majority community of India have been lampooned and portrayed in a very cheap and objectionable way. The submission of apology or withdrawal of scene after its streaming would not absolve the accused persons of the offence committed by them. The alluding to Lord Rama gaining popularity on social media is clear pointer to the dispute regarding the construction of Lord Ram's temple. The dialogue between the two Hindu Gods in episode 1 is shown in a very insidious manner. Devakinandan is abusing the man of lower caste working as a cobbler. Comment has been made regarding grant of reservation to scheduled castes.

15. The submission that it is a work of fiction and there was no motive or *mens rea* involved in such depiction loses force after perusal of the aforesaid scenes. The crew and cast has stuck to the scenes as work of fiction and have only stated of their being removed from the series.
16. Respect for all religions was the intention of the framers of the Constitution of India and hence, every citizen has been granted liberty to practice, profess and propagate his/her religion as per Article 25 of the Constitution of India. However, it is fundamental duty of every citizen under Article 51A(e) to promote harmony and spread common brotherhood amongst all the people of India, transcending religious, linguistic and regional or sectional diversities and to renounce practice derogatory to the dignity of woman. The scenes referred to above show that the woman of higher caste has been shown in a derogatory manner affecting the dignity of the woman since she has been made a symbol of revenge of a man of lower caste for taking revenge against the atrocities done against the woman of lower castes from long time.
17. This Court is taking note of the Chicago Address of Swami Vivekanand dated 11.09.1893 at the First World's Parliament of Religions, as per Section 57 of the Indian Evidence Act, where he said that the goal of all the religions is the same. All the religions are like different rivers having different paths but all merge in the same ocean which is the ultimate truth or God. Therefore, sectarianism, bigotry and fanaticism have to be done away with.
18. The basic philosophy of the Constitution is to permit the people of all faith to practice, profess and propagate their religion freely without hurting or acting against the people who profess or practice different religious faith than theirs. Therefore, it is a onerous duty of every citizen to respect the feelings of the people of other faith even while making a fiction. The irresponsible conduct against the

inherent mandate of the Constitution of India by anyone affecting the fundamental rights of the large number of citizens cannot be acquiesced to only because of the tendering of unconditional apology after committing the alleged act of crime and indiscretion. The reference to the disclaimer cannot be considered to be a ground for absolving the applicant of permitting the streaming of an objectionable movie online. The use of the word “TANDAV” as the name of the movie can be offensive to the majority of the people of this country since this word is associated with a particular act assigned to Lord Shiva who is considered to be creator, conservator and destroyer of the mankind all together.

19. (i) The Apex Court in the case of **Amish Devgan (supra)** has held that speech or expression causing or likely to cause disturbance or threats to public order or divisiveness and alienation amongst different groups of people or demeaning dignity of targeted groups, is against the Preamble of the Constitution of India. It violates dignity, liberty and freedom of others and poses threat to the unity and integrity of the nation and may be dealt as per Sections 153-A, 295-A and 505(2) I.P.C. The Apex Court further held that paradox of toleration is that if we extend unlimited tolerance even to those who are intolerant, if we are not prepared to defend the tolerant society against the onslaught of intolerant, then the tolerant will be destroyed. In this judgement, the Hon'ble Supreme Court has held that tolerance means use of temperate language and civility towards others. It implies non-discrimination of individuals or groups, but without negating the right to disagree and disapprove belief and behaviour. Tolerance signifies that all persons or groups are equal even when all opinions or conduct are not equal. Tolerance is a great virtue in all societies. In the context of hate speech, the Apex Court has held that it promotes public disorder and should be curbed by resort to relevant penal provisions. In the present case,

the scenes in dispute are likely to cause disturbance and threats to public order. The reference to Hindu Gods and Goddesses in the scenes in dispute in berating light cannot be justified. The advice of Sage Narad to Lord Shiva to make some inflammatory tweet on the Twitter like all the students of the campus becoming traitors and raising slogans of freedom clearly alludes to the incidents which took place in Jawaharlal Nehru University and therefore, it can be considered to be a message of hate advanced through the movie.

(ii) In the judgement in the case of **Bobby Art International and Others (supra)**, the Apex Court has considered whether the certification of film containing scenes against decency or morality can be permitted. It has held that test is that scenes should advance the message the film intended to convey. In the movie *Bandit Queen*, the scenes of nudity, rape, etc., were justified in view of the message the film was trying to convey. In the present case, the scenes in dispute are not claimed as part of entire movie and necessary for conveying the message which the film overall conveys.

(iii) In the case of **Rakeysh Omprakash Mehra & Anr. (supra)**, the Delhi High Court has considered a scene in a film “Delhi” wherein on account of role of a lady sweeper, it was alleged that the entire Valmiki Samaj has been insulted. The High Court considered the overall theme of the film and did not found the allegations to be correct.

(iv) In the case of **Director General, Directorate General of Doordarshan and Others (supra)**, the Apex Court was considering whether the Doordarshan can deny telecast of film given ‘A’ certificate by the censor board. The Court found that the film in dispute had received one national award and found that the Doordarshan was not justified in refusing to telecast the film.

(v) In the case of **Prathvi Raj Chauhan (supra)**, the Apex Court held that there is no absolute bar to grant of anticipatory bail on account of implication under the provisions of S.C./S.T. Act. It has held that where the complainant fails to make out a prima facie case for applicability of the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the bar created by Sections 18 and 18-A (i) of the Act aforesaid shall not apply. In the present case, the applicant has been implicated for offence u/s 3 (1) (r) of the S.C./S.T. Act which provides that whoever, not being a member of the scheduled caste or scheduled tribe, intentionally insults or intimidates with intent to humiliate a member of scheduled caste or scheduled tribe in any place within public view, shall be punished with imprisonment for a term which shall not be less than six months but which may extend to 5 years and with fine. In the present case, there is clear intention of humiliating the women of scheduled caste since it is clear from the scenes in episode 6 where it has been mentioned that when a man of lower caste dates a woman of higher caste, he is taking revenge for the centuries of atrocities from that one woman is certainly bound to affect the social harmony. Irrespective of caste, boys and girls are marrying and the message given in the movie that if a man of lower caste dates a woman of higher caste, it will amount to revenge for the centuries of atrocities committed against people of lower caste by dating of woman of higher caste is not as per Article 38 of the Constitution of India. The aforesaid scene shows the members of scheduled castes in the manner of intentional insult with the intent to humiliate in a movie meant for public view and therefore, the implication of the applicant for offences u/s 3(1)(r) of the S.C./S.T. Act is made out. Similarly, the utterances of Devakinandan regarding cobbler are objectionable.



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(vi) The reference to the judgement in the case of **Maya Ram Chauhan (supra)** is regarding offence covered under the S.C./S.T. Act and it does not requires to be considered in view of the consideration of the judgement of the Apex Court in the case of **Prathvi Raj Chauhan (supra)**.

(vii) The reference to the judgement in the case of **Dule Singh (supra)** is only regarding the offence committed under Section 3(1) (X) of the S.C./S.T. Act which has no application to the present case.

20. This Court takes futher judicial notice of the fact that whenever such crimes are committed by some citizens of the country, like the applicant and her co-accused persons, and it is made the subject matter of demonstration and public protest, the forces inimical to the interest of this country become active and they make it an issue and raise it before different national and international forums alleging that the Indian citizens have become intolerant and “India” has become unsafe place to live. Even in the liberal democracies of the West, it becomes a topic of debate and the Indian diplomacy has to face tough time protecting the interest of the country and assuring the international community that the protests made against such acts are stray and genuine and it is not mark of any intolerance in the country as a whole. Western filmmakers have refrained from ridiculing Lord Jesus or the Prophet but hindi filmmakers have done this repeatedly and still doing this most unabashedly with the Hindu Gods and Godesses. Things are worsening as is evident from the fact that an obscure stand-up comedian, Munawar Faruqui, from Gujarat made comments on Hindu God and Godesses in a new year show at Indore and gained undue publicity on being arrested in a case. This shows that from films this trend has passed to comedy shows. Such people make the revered figures of religion of majority community source of earning

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money in most brazen manner taking benefit of the liberal and tolerant tradition of country. The Apex Court has granted him relief recently after the same being denied by the High Court.

21. This Court further takes notice of the fact that number of movies have been produced which have used the name of Hindu Gods and Goddesses and shown them in disrespectful manner (*Ram Teri Ganga Maili, Satyam Shivam Sundram, P.K., Oh My God, etc.*). Not only this, efforts have been made to subvert the image of historical and mythological personalities (*Padmavati*). Names and icons of faith of majority community have been used to earn money (*Goliyon Ki Rasleela Ram Leela*). This tendency on the part of the hindi film industry is growing and if not curbed in time, it may have disastrous consequences for the Indian social, religious and communal order. There appears to be a design behind such acts on the part of the people who just give a disclaimer in all the films and depict things in the movies which are really religiously, socially and communally offensive in nature. The young generation of the country, which is not much aware of the social and cultural heritage of this country, gradually starts believing what is shown in the movies by the people like the accused persons in the present movie in dispute and thereby, it destroys the basic concept of the survival of this country having tremendous diversity of all kinds as a united nation. Film industry in south has not indulged in such acts like the hindi film industry.
22. For constituting offence u/s 295-A I.P.C., there should be deliberate and malicious intention of outraging the religious feelings of any class of citizens of the country. The aforesaid scenes show that the scenes have been made, intentionally using the names of Hindu Gods and sage to convey an insidious message. The allegations for committing offences u/s 153-A(b) I.P.C. is fully made out since the act of the applicant is prejudicial to the maintenance of harmony

between different religious, social and communal groups and would affect public peace and tranquility. A perusal of the contents of the dialogues in the above noted scenes would show that the offences under Sections 505(1)(b) I.P.C. and 505(2) I.P.C. are fully made out. On the one hand, the sentiments of majority community have been hurt by display of the characters of their faith in disrespectful manner and on the other hand, an attempt has been made to widen the gap between the higher castes and the scheduled castes when the object of the State is to bridge the gap between the different castes and communities and make the country a united force socially, communally and politically.

23. The applicant has taken all sorts of technical grounds that the offences alleged against her are not made out and that her company has not been impleaded as an accused. However, the fact remains that the applicant had not been vigilant and has acted irresponsibly making her open to criminal prosecution in permitting streaming of a movie which is against the fundamental rights of the majority of citizens of this country and therefore, her fundamental right of life and liberty cannot be protected by grant of anticipatory bail to her in the exercise of discretionary powers of this Court.
24. It has come to the notice of this Court that the applicant has filed another anticipatory bail application being Criminal Misc. Anticipatory Bail Application U/S 438 Cr.P.C. No. 1794 of 2021 before this Court with regard to another such F.I.R lodged at P.S.- Hazratganj, Lucknow. She was granted interim protection from arrest by the order dated 11.02.2021 by a co-ordinate Bench, but she was not co-operating with the investigation. On 22.02.2021, this Court has directed her to appear before the Investigating Officer of police station concerned on 23.02.2021. This conduct of the applicant shows that she has scant respect for the law of the land and her conduct further disentitles her to any relief from this

Court, since co-operation with investigation is a necessary condition for grant of anticipatory bail.

25. This anticipatory bail application is accordingly, **rejected**.

**Order Date :- 25.02.2021**

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