

“FREE SPEECH VS. NATIONAL SENTIMENT: A LEGAL OVERVIEW OF THE LAW STUDENT’S ARREST IN THE CONTEXT OF ‘OPERATION SINDOOR’”

INTRODUCTION

The arrest of a law student for an allegedly objectionable social media post concerning ‘Operation Sindoor’ has triggered widespread legal and constitutional discourse. ‘Operation Sindoor’, a brief armed conflict between [India](#) and [Pakistan](#) that began on 7th May, 2025, after India launched missile strikes on Pakistan was a retaliatory action undertaken by the Indian Armed Forces in the aftermath of the gruesome terrorist attack by Pakistan backed groups on 22nd April, 2025, wherein 26 innocent civilians were killed in the Union Territory of Jammu and Kashmir. In the backdrop of such an event, the student's remarks—perceived as derogatory and potentially inflammatory—prompted criminal proceedings under various provisions of the Bharatiya Nyaya Sanhita, 2023 and the Information Technology Act, 2000.

The arrest of a law student from the Symbiosis International University over an allegedly objectionable Instagram post about ‘*Operation Sindoor*’ has sparked widespread discussion. The student was picked up by Kolkata Police from Gurgaon in Haryana after multiple FIRs were registered, alleging that her post had hurt religious sentiments and promoted enmity between communities. The incident has raised questions about the limits of **free speech** on social media, especially in regards with communal remarks.¹ It also brings attention to the legal consequences of online expression and the balance between personal opinion and public order. This incident raises significant questions surrounding the Fundamental Right to Freedom of Speech and Expression, as guaranteed under Article 19(1)(a) of the Constitution of India, and the permissible limits thereof under Article 19(2). It further invites scrutiny into the use of criminal law provisions to curb dissent or unpopular opinions, particularly in the context of digital expression by students and young citizens.

This legal overview aims to critically examine the constitutional, statutory, and procedural aspects surrounding the arrest. It evaluates whether the action taken by law enforcement adheres to established legal standards, including safeguards against arbitrary arrest, the proportionality of restrictions on speech, and the relevance of recent judicial pronouncements on sedition, public order, and misuse of penal statutes.

BACKGROUND

On May 30, 2025, Sharmishta Panoli, was arrested from Gurgaon by a team of Kolkata Police. The arrest followed the circulation of a video she had posted on her X (formerly Twitter) account, wherein she had made certain remarks in response to a post related to ‘*Operation Sindoor*’. Her video was seen by many as containing offensive comments about Prophet Muhammad and Islam, leading to widespread outrage across sections of the Muslim community. The post was soon deleted, but by then, it had already gone viral.²

Multiple FIRs were registered in Kolkata, leading to the issuance of a warrant of arrest. Apart from further legal proceedings, the university also took disciplinary action. The controversy raised concerns about freedom of speech and due process and online policing. Sharmishta had also issued a public apology, describing the video as an expression of her personal emotions and stating that she had no intent to hurt anyone.

¹ Dwaipayan Ghosh, *Pune Law Student Held in Gurgaon over ‘Hurting Religious Sentiments’ Instagram Post; Apologises on X, Barred from College Placements*, THE TIMES OF INDIA (1 June 2025), <https://timesofindia.indiatimes.com/city/kolkata/kol-cops-pick-up-law-student-from-ggn-for-post-hurting-religious-sentiments/articleshow/121540323.cms>.

² Syeda Faiza Kirmani, *Pune Student Arrested Over Derogatory Post on Prophet Muhammad*, THE SIASAT DAILY (May 31, 2025, 2:53 PM), <https://www.siasat.com/pune-student-arrested-over-derogatory-post-on-prophet-muhammad-3227337/>.

LEGAL OVERVIEW

The legal action against Sharmistha Panoli commenced with the FIR registered at the Garden Reach Police Station in Kolkata, following her alleged objectionable social media post. The allegations levelled in the said FIR were particularly serious, including **Section 196³** (promoting enmity between different religious groups), **Section 299⁴** (deliberate and malicious acts intended to outrage religious feelings), and **Section 353⁵** (public mischief) of the BNS, 2023.

After attempts to serve **notice** reportedly failed, the investigating authorities approached the competent magistrate for a warrant of arrest. The court issued the **warrant** on the grounds that the accused could not be located at her known address. Acting on the warrant, a team of officers from Kolkata Police traced and **arrested** her in Gurgaon, Haryana⁶.

After hearing the matter, the Alipore Court remanded her to **judicial custody** until June 13, 2025.⁷ The court declined the request for police custody, indicating that custodial interrogation was not warranted at this stage.

FREEDOM OF SPEECH IN INDIA

The right to freedom of speech and expression is enshrined under **Article 19(1)(a)⁸** of the *Constitution of India*. This right is foundational to a democratic society and includes the liberty to express one's opinions through spoken or written words, gestures, or any other form of communication.

However, this right is not absolute. **Article 19(2)⁹** permits the State to impose “reasonable restrictions” on this freedom in the interest of sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation, or incitement to an offence.

In the case of Sharmistha Panoli, the **issue** lies in whether her social media post was allegedly derogatory towards a religion, crossed the threshold of permissible expression and entered the realm of incitement or deliberate provocation, and if it threatens public order or religious harmony.

While personal opinions are generally protected, courts have consistently held that expressions which are intended or likely to incite violence or hatred, especially along **communal lines**, may justifiably invite legal consequences. Thus, her arrest under provisions that deal with promoting enmity and religious disharmony reflects an invocation of given **constitutional limits**.

PAST PRECEDENTS OF SIMILAR NATURE

The case of *Amish Devgan v. Union of India (2020)*¹⁰ case serves as a key precedent, where multiple FIRs were filed after televised remarks allegedly outraging religious sentiments. The Supreme Court upheld that

³ Bharatiya Nyaya Sanhita, No. 45 of 2023, § 196, Gazette of India, Extraordinary, Part II, Sec. 1 (Dec. 25, 2023).

⁴ Bharatiya Nyaya Sanhita, No. 45 of 2023, § 299, Gazette of India, Extraordinary, Part II, Sec. 1 (Dec. 25, 2023).

⁵ Bharatiya Nyaya Sanhita, No. 45 of 2023, § 353, Gazette of India, Extraordinary, Part II, Sec. 1 (Dec. 25, 2023).

⁶ *Id.* at 2.

⁷ NDTV News Desk, *Who Is Sharmishta Panoli, What Did She Say That Landed Her In Jail*, NDTV (June 1, 2025), <https://www.ndtv.com/india-news/sharmishta-panoli-the-influencer-law-student-arrested-by-kolkata-police-8559437>.

⁸ India Const. art. 19, cl. 1(a).

⁹ India Const. art. 19, cl. 2.

¹⁰ *Amish Devgan v. Union of India*, (2020) 10 SCC 704 (India).

while free speech is protected, it is not absolute and may attract legal scrutiny under *Article 19(2)*. Similarly, in *Shreya Singhal v. Union of India (2015)*¹¹, the Court struck down Section 66A of the IT Act but emphasized the need to balance expression with public order.

CURRENT STATUS

Pursuant to her arrest, Sharmishta had approached the High Court at Calcutta by way of a writ petition, seeking quashing of all the FIRs registered against her. She had alternatively prayed for clubbing of all the FIRs and investigation by a neutral investigating agency. The High Court, 5th June, 2025, granted interim bail to Sharmishta and she was released from custody thereafter.

CONCLUSION

The arrest of Sharmishta Panoli highlights the ongoing challenge of balancing the constitutional right to freedom of speech with the necessity of maintaining public order and religious harmony. While expression is a fundamental right, it is subject to reasonable restrictions under *Article 19(2)*¹² of the Constitution when it threatens communal peace or incites enmity. The matter also raises critical concerns regarding the proportionality of state action and the safeguards against arbitrary detention, duly addressed by the court.

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¹¹ Shreya Singhal v. Union of India, (2015) 5 SCC 1 (India).

¹² India Const. art. 19, cl. 2.