

Ajit Pathrikar

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 380 OF 2025**

Ashutosh Dharmendra Upadhyay	...Applicant
Versus	
State Of Maharashtra	...Respondent

**WITH
INTERIM APPLICATION NO. 702 OF 2026
IN
CRIMINAL APPLICATION NO. 380 OF 2025**

Mr. Ajay Jaiswal, *for the Applicant in APPLN/380/2025.*
Mr. Mayur Sonavane, *APP for the State-Respondent No.1.*
None for Respondent No.2 in APPLN/380/2025 and for
Applicant in IA/702/2026.

CORAM DR. NEELA GOKHALE, J.
DATED: 26th FEBRUARY 2026

PC:-

1. None appears for Respondent No.2 despite service of notice. An advocate has filed his vakalatnama in the Registry on behalf of Respondent No.2. However, none is present when the matter is called out.

2. The Applicant seeks modification of clause (vi) of paragraph 2 of the order dated 18th July 2025, whereby the Applicant was directed to pay a sum of Rs. 5,00,000/- every three months from the date of the said order to the Investors as listed by the Investigation Authority and he is also directed to pay the said amount till the fulfillment of entire payment of Rs.1,56,00,000/- is complete.

3. Mr. Ajay Jaiswal, learned counsel for the Applicant, submits that such condition cannot be imposed as a condition for grant of bail. He relies upon a decision of the Supreme Court in the matter of *Gajanan Dattatray Gore vs. State of Maharashtra & Anr*¹ wherein the Supreme court has strongly deprecated the practice of accepting monitory deposits as a condition for grant of bail. Further in the matter of *Prantik Kumar & Anr v. the State of Jharkhand & Anr*², the Supreme Court in paragraph 9 of its order dated 3rd February, 2026 has

1 (2025 INSC 913)

2 Special Leave Petition (Criminal) Diary No.4297/2026.

once again reiterated its observations in the case of ***Gajanan Dattatray Gore*** (*supra*) which reads as under:

“9. In our Judgment, referred to above, we made ourselves very clear that if a case for grant of bail or anticipatory bail is made out, then the Court should proceed to pass an appropriate order and if not made out, the Court may decline, however, Court should not pass a conditional order of deposit of a particular amount and then exercise its discretion.”

4. In these circumstances, the factual matrix and in view of the settled law, the condition (vi) is modified and deleted accordingly.

5. Rest of the order remains as it is.

6. The Criminal Application is allowed and is disposed of in the above terms.

(Dr. Neela Gokhale, J)