JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT,
ISLAMABAD

W.P. NO. 3113 OF 2025

LT. COL. (R) KHALIL-UR-REHMAN

VS

JUDICIAL MAGISTRATE (SECTION 30), ISLAMABAD-WEST, ETC.

Petitioner by	**:**	**Mr. Riasat Ali Azad, Advocate.**
Respondents by	**:**	**Raja Zamir ud Din Ahmed, AAG.** **Mr. Umer Arsalan, Assistant Director, FIA.**
Date of hearing	**:**	**13.08.2025**

MUHAMMAD AZAM KHAN, J.

1. Through the instant Writ Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 (**"Constitution"**), the Petitioner has assailed the Order dated 08.08.2025 **("Impugned Order")** passed by the learned Judicial Magistrate (Section-30), Islamabad-West whereby six days physical remand of the Petitioner is being granted in case FIR No. 48/2025 dated 09.07.2025.

2. The brief facts of the case as per the Memo of Petition are that the Petitioner was arrested on 26.07.2025 in connection with FIR No. 48/2025, registered at Police Station FIA Commercial Banking Circle (CBC), Islamabad, under Sections 4, 5, 8, and 23 of the Foreign Exchange Regulation Act, 1947, read with Section 109 PPC. Allegedly, the Petitioner was not named in the said FIR. The raid conducted at the Petitioner's residence was carried out without prior judicial permission, and no incriminating material, foreign currency, or relevant documentation was allegedly recovered from his possession or premises. The Petitioner, was subjected to a 13-day physical remand in the said FIR, followed by a one-day statutory remand. Despite this prolonged detention, no recovery was made from him, nor did the investigation achieve any substantive progress during

his remand. Immediately after the conclusion of the 13-day remand, when the Petitioner was sent to judicial custody on 08.08.2025, the FIA, registered a second FIR No. 19/2025 dated 07.08.2025 at the FIA Anti-Money Laundering Circle, Islamabad, under Sections 3 and 4 of the Anti-Money Laundering Act, 2010 (as amended in 2020). As per the Petition, FIR No. 19/2025 is a continuation of the same set of facts and transactions that formed the basis of the Petitioner's false implication in FIR No. 48/2025. The registration of this subsequent FIR appears to be a deliberate tactic to prolong the Petitioner's unlawful detention and harassment, constituting a gross abuse of the legal process. On 08.08.2025, the Petitioner was produced before the Judicial Magistrate, Islamabad-West, in connection with both FIRs. The FIA sought a one-day further remand in FIR No. 48/2025 and a 14-day physical remand in FIR No. 19/2025. The learned Magistrate granted a fresh six-day physical remand in FIR No. 19/2025 vide the Impugned Order. Feeling aggrieved the Petitioner has preferred the instant Writ Petition.

3. The learned counsel for the Petitioner argued that the Impugned Order violates settled principles of criminal jurisprudence, as it subjects the Petitioner to successive remands in multiple FIRs arising from the same alleged transaction. FIR No. 19/2025 is a direct offshoot of FIR No. 48/2025, wherein the Petitioner was already in custody and under investigation, rendering the second FIR a malicious attempt to prolong illegal detention. The Petitioner remained in continuous custody of the same FIA officials for 14 days, during which all investigative avenues ought to have been exhausted. Any further remand is thus unjustified, oppressive, and an abuse of process. Both FIRs are false, frivolous, and based on fabricated allegations, lacking any legal or factual basis. The timing of FIR No. 19/2025, registered immediately after the conclusion of the 13-day remand in FIR No. 48/2025, exposes a pattern of malice and bad faith by the FIA, aimed at circumventing judicial custody through a collateral investigation. The continuation of physical remand via a second FIR grounded in identical facts constitutes double jeopardy and forum shopping, violating Articles 4, 9, 10, and 13 of the Constitution. The Impugned Order further offends Article

10, as it was passed mechanically without due process, failing to assess the necessity of custody or the Petitioner's prior cooperation during the initial remand. The Magistrate ignored mandatory procedural safeguards under Lahore High Court Rules (Vol. III, Ch. 11) and Section 167 Cr.P.C., issuing a non-speaking order devoid of judicial reasoning. The remand request lacked case-specific justification, relying instead on vague terms like "investigation and recovery," contrary to Section 21 of the Anti-Money Laundering Act (AMLA), 2010, and Rule 13 of the AML Rules, 2016, which mandate expeditious, rights-compliant probes. The Impugned Order also conflicts with **PLD 2005 SC 86** (State v. Nasir Javed Rana), which obligates Magistrates to act as custodians of liberty, not rubber stamps for police overreach. The Petitioner, a retired Lt. Colonel with an unblemished record, poses no flight risk or threat to evidence. The FIA's failure to justify the remand, despite prior custodial access and documented case diaries, reveals its ulterior motive to harass and extract self-incrimination. The Impugned Order further breaches Section 62 Cr.P.C. by delaying arrest disclosures, compounding the Petitioner's enforced disappearance and familial isolation. In light of **PLD 2018 SC 595** (Sughra Bibi's case) and constitutional precedents, the Petitioner seeks this Court's intervention to quash the unlawful remand and uphold fundamental rights.

4. On the other hand, the learned Assistant Attorney General contended that the present petition is not maintainable as the Petitioner has an alternative and efficacious remedy available under the law. The Petitioner ought to have approached the appropriate forum for redressal of his grievances rather than invoking the constitutional jurisdiction of this Court; that the arrest of the Petitioner was made in accordance with law and based on credible evidence linking him to the alleged offences; that the registration of FIR No. 19/2025 was necessitated by fresh evidence that surfaced during the investigation of FIR No. 48/2025, justifying a separate inquiry under the Anti-Money Laundering Act, 2010; that the learned Magistrate applied his judicial mind while granting remand and was satisfied that further custody was required for a fair and complete investigation; that the remand order is a speaking order and complies with the

requirements of Section 167 Cr.P.C; that the FIA acted strictly in accordance with its statutory duties, and there is no evidence of *mala fide* or ulterior motives; that the second FIR was registered based on independent material and not as a tactic to harass the Petitioner; that the Petitioner has not fully cooperated with the investigation, necessitating further remand to uncover the complete chain of transactions and identify other potential accused persons; and that the present case involves complex financial crimes requiring thorough investigation, and the remand was granted keeping in view the gravity of the offences.

5. I have heard the learned counsel for the Parties and perused the record with their able assistance.

6. The record unambiguously demonstrates that the registration of Second FIR (No. 19/2025) on 07.08.2025 and practical necessity of remand in the second FIR coincided with the last day of the Petitioner's remand in the first FIR (No. 48/2025) which rendered it legally and practically impossible for the investigating agency to seek, or for the Magistrate to grant, a consolidated remand covering both cases. However, the registration of Second FIR does not *ipso facto* indicate *mala fide* or ulterior motives, rather, it reflects the practical realities of complex financial investigations, where fresh evidence often surfaces towards the culmination of initial inquiries. Given that the second FIR pertains to distinct but interlinked transactions under the Anti-Money Laundering Act (AMLA), 2010, the investigating agency was legally obligated to register a separate case to scrutinize the newly unearthed material.

7. The sheer volume of documentary evidence, including cheques of substantial amounts allegedly linked to the Petitioner as a beneficiary in hawala/hundi operations, necessitated further custodial interrogation to trace the money trail, identify accomplices, and secure incriminating records. Thus, the remand in the second FIR does not appear to be a colourable exercise of power, but a legitimate investigative step to ensure a thorough probe. *Prima facie* documentary evidence and nature of offences the existence of *prima facie* documentary evidence (e.g., cheques, bank transactions, and digital records)

directly implicating the Petitioner in hawala/hundi operations justifies the grant of remand. Unlike ordinary crimes, white-collar offences, particularly those involving money laundering, foreign exchange violations, and transnational financial fraud, require sustained custodial interrogation to decipher complex paper trails and cross-verify transactional records; uncover the roles of co-accused and intermediaries in the alleged racket; prevent tampering with evidence, given the Petitioner's potential influence over financial documents and witnesses. The gravity of the allegations and the sophisticated nature of the crime render physical remand indispensable.

8. Let's suppose for a moment that the remand was erroneous, the Petitioner ought to have first approached the Sessions Court to challenge its legality. The constitutional jurisdiction of this Court under Article 199 is not a substitute for ordinary remedies unless exceptional circumstances (e.g., enforced disappearance, patent illegality) exist. Here, the Petitioner's grievances, pertaining to the duration and necessity of remand, could have been adequately redressed by the Sessions Judge, who is equally empowered to quash illegal remand orders or grant bail. The bypassing of this alternative remedy undermines the Petitioner's plea for constitutional relief.

9. In light of the *prima facie* evidence, statutory compliance, and absence of *mala fide*, the remand in FIR No. 19/2025 is legally justified and procedurally sound and invoking this Court's constitutional jurisdiction by the Petitioner, without exhausting alternative remedies, is untenable. As such the remand order warrants no interference.

10. For the foregoing reasons, this petition lacks merit and is accordingly **dismissed**.

(MUHAMMAD AZAM KHAN)
JUDGE

Adnan