ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Crl. Misc. No.2130/2025

Kamran Hussain

Versus

The State

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	15.01.2026	Mr.Nabeel Tahir Mirza, Advocate for the petitioner. Ms. Asma, learned SPP alongwith Burhan, Sub Inspector.

KHADIM HUSSAIN SOOMRO J:- Through this Criminal Misc. the petitioner seeks post-arrest bail in case FIR No.1159 dated 14.07.2025 offence under sections 9(1)6d CNSA, 324, 353, 225, 186, PPC, 13/12/65, A.O, P.S. Khanna, Islamabad.

2. Breif fact of the prosecution case are that the instant FIR lodged by Muhammad Hussain, Si, upon receipt of spy information, it was reported that Kamran Hussain (present petitioner), along with his accomplices namely Umair Satti, Shehryar, and one unidentified person, was involved in the possession and sale of a large quantity of narcotics near Zia Masjid Stop, adjacent to Green Area Ground, and that timely action could result in their arrest. Acting upon the said information, a raid was conducted at about 2:15 a.m., during which the petitioner and his accomplices were found present at the spot. The petitioner was holding a bag in his right hand. During the operation, Umair Satti, Shehryar, and the unknown accomplice intentionally opened fire on the police party; however, the officials remained unhurt due to wearing

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bulletproof jackets. However, the petitioner sustained injury at the hands of his companion, whereas the other accused persons succeeded in fleeing from the scene. In search of the bag in possession of the petitioner, three (03) envelopes (momi lifafis) were recovered, containing brown-colored heroin. Upon weighing on a digital scale, the total quantity was found to be 1020 grams. One (01) gram was separated as a sample and sent for chemical examination. Hence, the registration of the instant FIR.

3. Learned counsel for the petitioner submitted that the FIR was registered on 14.07.2025, and since then, the petitioner has been in custody. It was further submitted that the road certificate was prepared after an unexplained delay of 7 days, constituting a gross violation of the CNSA Rules, 2001. Learned counsel pointed out that although the contents of the FIR allege straight firing upon the police party, not a single scratch or injury was caused to any member of the police, rendering the allegation inherently doubtful. It was further pointed out that more than 5 months have passed, yet the report under Section 173 Cr.PC has still not been submitted before the learned Trial Court.

4. Conversely, the learned Special Public Prosecutor contends that the petitioner/accused is involved in multiple criminal cases and is a hardened criminal. It is further stated that the Investigation Officer arrested another co-accused on 11.08.2025 and effected the recovery of a pistol on 13.08.2025, after which the challan was prepared on 23.08.2025 and submitted to

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the office of the learned Deputy District Public Prosecutor; however, the same has admittedly not been filed before the learned Trial Court to date. The recovery of contraband was made from the exclusive possession. During the police encounter, the petitioner sustained firearm injury at the hands of his accomplice.

5. We have heard the learned counsels for the parties and perused the material available on the record.

6. The record reveals that upon a spy information, the police party conducted a raid at the pointed place and time, where the petitioner was apprehended at the spot while holding a bag. During the operation, the accomplices of the petitioner allegedly resorted to firing upon the police party, though no official sustained injury owing to protective gear. The petitioner, however, received an injury at the hands of his own companions, while the other accused persons managed to escape.

7. The record further reveals that, upon search of the bag in possession of the petitioner, three envelopes containing brown-colored heroin were recovered, and upon weighing, the total quantity was found to be 1,020 grams. The recovery was effected directly from the physical possession of the petitioner, which prima facie connects him with the commission of the alleged offence. The quantity of narcotics recovered from the petitioner falls within the prohibitory clause.

8. At this stage, the Court is not required to conduct a deeper appreciation of evidence; rather, it is to assess

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whether there exist reasonable grounds to believe that the accused is involved in the commission of a non-bailable offence. The recovery of a substantial quantity of heroin from the petitioner, coupled with the circumstances of his arrest at the spot, constitutes sufficient material to form such a tentative assessment. The defence has not been able to point out any material contradiction, mala fide, or procedural irregularity which may render the case one of further inquiry within the meaning of Section 497(2) Cr.P.C.

9. It is also settled law that offences relating to narcotics are not only crimes against an individual but are offences against society at large. The menace of narcotics has devastating consequences, particularly for the youth, and poses a serious threat to public health, social order, and national security. The legislature, therefore, has treated such offences with greater severity, and the Courts are required to exercise caution when extending bail in cases involving commercial quantities of narcotics. However, apart from the severity of the offences, the petitioner still has a right of fair and expeditious trial.

10. We also observed that in the instant case, the statutory scheme embodied in Section 173 of the Code of Criminal Procedure, 1898, has not been adhered to in its true letter and spirit. The investigation report under Section 173 Cr.P.C. is not a mere procedural formality; rather, it constitutes the foundational step upon which the criminal trial is set in motion. The legislature, by

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prescribing a definite timeframe for the submission of the challan, intended to ensure expeditious investigation, the timely commencement of trial, and the protection of the fundamental rights of the accused, the victim, and society at large. Any departure from this mandatory statutory framework not only frustrates the purpose of the provision but also raises serious concerns about the constitutional guarantees of a fair trial and due process. It is, therefore, imperative to examine the legal and constitutional consequences flowing from such a violation before proceeding further in the matter.

11. It is by now a settled principle of criminal jurisprudence that the investigation report under Section 173 of the Code of Criminal Procedure, 1898, is not a mere administrative formality, but the very foundation upon which the edifice of a criminal trial is constructed. The statutory mandate contained in Section 173(1) Cr.P.C. requires the investigating agency to complete the investigation and submit the report to the Court through the Public Prosecutor within the prescribed period. The language of the provision is clear, categorical, and leaves no room for ambiguity: the report's destination is the Court of competent jurisdiction, not merely the office of the Public Prosecutor. Any interpretation that treats submission to the Public Prosecutor as sufficient compliance would defeat both the letter and the spirit of the law.

12. The Supreme Court of Pakistan has repeatedly observed that the delay in submission of charge-sheets,

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challans, and interim challans is not a routine irregularity, but a systemic failure that directly undermines the constitutional guarantees of fair trial and due process as enshrined under Article 10-A of the Constitution. The criminal justice system rests upon the principle that justice must not only be done, but must be done within a reasonable time. Delay in investigation, particularly in the submission of the challan, strikes at the very root of this principle. Such delays produce grave and far-reaching consequences. Firstly, they prolong the incarceration of accused persons, many of whom remain in custody without trial, thereby converting the process of law into a form of punishment without conviction. Secondly, with the passage of time, the quality of evidence deteriorates; witnesses either become unavailable, are influenced, lose memory, or in unfortunate cases, fall victim to retaliatory violence or natural causes. Thirdly, the delay contributes directly to the mounting backlog of criminal cases, erodes public confidence in the administration of justice, and breeds a sense of frustration among litigants. This frustration, as observed by the Supreme Court, often compels parties to take the law into their own hands, thereby perpetuating cycles of vengeance and lawlessness.

13. From a legal-philosophical perspective, the criminal process is not merely a procedural mechanism; it is a constitutional instrument designed to balance the coercive power of the State with the liberty of the individual. The right to a fair trial under Article 10-A is not

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confined to the trial stage alone, but extends to every phase of the criminal process, including investigation. A delayed challan is, in essence, a denial of timely justice. Justice delayed in criminal proceedings is not only justice denied to the accused, but also justice denied to the victim and society at large.

14. The investigating agency, the prosecutorial branch, and the supervisory hierarchy of the police constitute interdependent components of the criminal justice chain. Any inefficiency or apathy within these components results in a breakdown of the entire system. The Supreme Court has already taken serious notice of the fact that supervisory officers often fail to ensure compliance with mandatory statutory timelines, thereby allowing delays to persist unchecked.

15. In view of the above, it becomes the constitutional duty of the Courts to ensure that the statutory framework is not reduced to a dead letter. The provisions of Section 173 Cr.P.C. are mandatory in nature and must be complied with in their true letter and spirit. Any unjustified delay in the submission of the challan not only violates the statutory command but also infringes the fundamental right to fair trial and due process guaranteed under Article 10-A of the Constitution. For the foregoing reasons, it is held that the delay in submission of the investigation report under Section 173 Cr.P.C., without any justifiable cause, is in clear violation of the mandatory statutory framework as well as the fundamental right to fair trial and due process guaranteed

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under Article 10-A of the Constitution. Reliance is placed on cases reported as 2021 SCMR 1458, PLD 2021 Supreme Court 795 and PLD 2017 Supreme Court 147. Such delays not only prejudice the rights of the accused and the victims but also erode public confidence in the criminal justice system and contribute significantly to the backlog of criminal cases. The investigating agency and the prosecution are, therefore, under a constitutional and statutory obligation to ensure strict compliance with the timelines prescribed under Section 173 Cr.P.C. In order to address this systemic issue and to ensure compliance with the law in its true letter and spirit, the following directions are issued:

16. In order to address the issue of delay in submission of reports under Section 173 Cr.P.C. and to ensure compliance with the statutory framework as well as the constitutional mandate of fair trial, it is directed that all Sessions Judges in Islamabad Capital Territory shall undertake a comprehensive review of criminal cases pending before their respective courts and within their administrative domain. The learned Sessions/Additional Sessions Judge dealing with cases under the Control of Narcotic Substances laws and FIA Courts, where challans have not been submitted within the statutory period, shall call for reports from the concerned investigating officers and supervisory police officials explaining the reasons for such delay. In cases where the delay is found to be unjustified or attributable to negligence or misconduct, the matter shall be reported to

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the competent authorities for initiation of disciplinary proceedings, and the learned Sessions Judges and other Special Court Judges shall further ensure that the investigating agencies and prosecution branches adhere strictly to the statutory timelines for submission of challans and interim challans. The Inspector General of Police, Islamabad, is directed to devise and implement an effective monitoring mechanism for the timely completion of investigations and submission of challans, while the Prosecutor General, Islamabad, shall establish an internal review system to ensure that challans received by the prosecution are promptly scrutinized and forwarded to the competent courts within the statutory framework. The Inspector General of Police, Islamabad, and the Prosecutor General, Islamabad, shall submit a compliance report to the Deputy Registrar Judicial of this Court within one month, detailing the measures taken to eliminate delays in the submission of challans, and a copy of this order shall also be communicated to the Registrar, Islamabad High Court, for information and necessary administrative coordination. These directions are issued to ensure that the mandate of Section 173 Cr.P.C. and the constitutional guarantee of fair trial are observed in their true letter and spirit, and that accountability is enforced at all levels of the criminal justice system.

17. In view of the foregoing, the instant post-arrest bail to the petitioner is dismissed, however, the petitioner's right of fair and expeditious trial cannot be denied. Consequently, the investigating officer is directed to

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submit 173 report. The trial court is also directed to conclude the trial within two months after receipt of 173 report.

18. The observations made in the preceding paragraphs are tentative in nature, and the same shall not prejudice the right of the parties before the learned trial court, which is to be decided on its own merits.

(MUHAMMAD ASIF)
JUDGE

(KHADIM HUSSAIN SOOMRO)
JUDGE

APPROVED FOR REPORTING

Niqab

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